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Addendum

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

[20 March 1998]

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Article 1. The right to self-determination of peoples

1. In conformity with principles of the Charter of the United Nations concerning the right of all nations to self-determination, the citizens of the Republic of Macedonia expressed their will and gave their vote for establishing the Republic of Macedonia as a sovereign and independent State at the referendum held on 8 September 1991, confirming by way of plebiscite the statehood and sovereignty of the Republic of Macedonia. The referendum results were reaffirmed in the Declaration enacted by the Parliament of the Republic of Macedonia at its session held on 17 September 1991 determining, inter alia, that: "The Republic of Macedonia, as a sovereign and independent State, will be committed to consistent respect of the generally accepted principles contained in the United Nations documents, the OSCE Helsinki Final Act, and in the Paris Charter for a New Europe. The Republic of Macedonia based its international legal personality upon the respect of international norms regarding the relations between States and upon the full respect of the principles of territorial integrity and sovereignty, of non-interference in internal affairs, strengthening of mutual respect and trust, and development of comprehensive cooperation of mutual interest with all countries and peoples."

2. In parallel with the activities for independence of the Republic of Macedonia, the new Constitution of the Republic of Macedonia was being prepared, which was adopted by the Parliament of the Republic of Macedonia on 17 November 1991.

3. On 19 December 1991, the Parliament of the Republic of Macedonia enacted the Declaration requesting to be internationally recognized as a sovereign and independent State. The Republic of Macedonia became a full-fledged member of the United Nations on 8 April 1993.

4. The political system and the objectives which determine it were set forth in the Preamble to the Constitution of the Republic of Macedonia:

> "Taking as the point of departure the historical, cultural, spiritual and statehood heritage of the Macedonian people and their struggle over centuries for national and social freedom, as well as for the creation of their own State, and particularly the traditions of statehood and legality of the Krusevo Republic, and the historic decision of the Anti-Fascist Assembly of the People's Liberation of Macedonia (ASNOM), together with the constitutional and legal continuity of the Macedonian State as a sovereign republic within Federal Yugoslavia and the freely manifested will of the citizens of the Republic of Macedonia the referendum of 8 September 1991, as well as the historical fact that Macedonia is established as a national State of the Macedonian people, in which full equality as citizens and permanent coexistence with the Macedonian people is provided for, Turks, Vlachs, Roma, and other nationalities living in the Republic of Macedonia, and intent on: the establishment of the Republic of Macedonia as a sovereign and independent State, as well as a civil and democratic one; the establishment and consolidation of the rule of law as a fundamental system of government; the guaranteeing of human rights, citizens' freedoms and ethnic equality; the provision of peace and a common home

for the Macedonian people with the nationalities living in the Republic of Macedonia; and on the provision of social justice, economic well-being and prosperity in the life of the individual and the community."

5. Under article 1 of the Constitution, the Republic of Macedonia is defined as a sovereign, independent, democratic and social State, where sovereignty is derived from the citizens and belongs to the citizens. Citizens exercise authority through democratic elections of representatives, through referendum and through other forms of direct expression.

6. In article 8, the Constitution determines the fundamental values of the constitutional system of the Republic of Macedonia to be: the basic freedoms and rights of the individual and citizen, recognized in international law and set down in the Constitution; the free expression of national identity; the rule of law; the division of the State power into legislative, executive and judicial branches; political pluralism and free, direct and democratic elections; the legal protection of property; the freedom of the market and entrepreneurship; humanism, social justice and solidarity; local self-government; appropriate non-prohibition and rural planning to promote a congenial human environment, as well as ecological protection and development; and respect for the generally accepted norms of international law.

7. "All the natural resources of the Republic of Macedonia, the flora and fauna amenities in common use, as well as the objects and buildings of particular cultural and historical value determined by law are amenities of common interest for the Republic and enjoy particular protection. The Republic guarantees the protection, promotion and enhancement of the historical and artistic heritage of the Macedonian people and of the nationalities and the treasures of which it is composed, regardless of their legal status" (art. 56 of the Constitution). The manner and conditions under which amenities of common interest for the Republic, determined by law, may be approved for use are regulated by the Law on Concessions.

Article 2. Human rights and their protection

8. By decision of the Government on 20 September 1993, the Republic of Macedonia acceded to the International Covenant on Civil and Political Rights, 1/ whereby it expressed its commitment to respect and develop the freedoms and rights generally accepted in democratic countries and expressed in the documents of international organizations. The rights guaranteed in the Covenant, in the legal system of the Republic of Macedonia, are contained in the 1991 Constitution, which contains a special chapter dedicated to human freedoms and rights, systematically ordered as civil and human rights, and economic, social and cultural rights. The Constitution of the Republic of Macedonia implements in full the provisions of the Covenant as follows:

The right to life (art. 6) is guaranteed in article 10 of the Constitution, which stipulates that human life is inviolable and the death penalty is prohibited;

The prohibitions of articles 7 and 8, concerning torture, inhuman and degrading treatment and punishment, slavery and forced labour, are

covered within the framework of article 11 of the Constitution, which guarantees the inviolability of the physical and moral integrity of man, and prohibits any kind of torture, inhuman or degrading treatment and punishment, as well as any form of forced labour;

The right to freedom and security of person in article 9 of the Covenant is reflected in an appropriate manner in article 12 of the Constitution, through the guarantee of the inviolability of human freedom and through determining the cases and conditions under which freedom can be restricted for a person accused of a crime;

The right to liberty of movement and freedom to choose residence in article 12 of the Covenant is guaranteed by article 27 of the Constitution which also determines the restrictions of this right;

The right to a fair trial in article 14 of the Covenant is legally and constitutionally guaranteed by several provisions of the Constitution which concern the presumption of innocence of the accused person and the right to compensation because of an unlawful court verdict (art. 13), and the rights of a person who is detained because of suspicion that he committed a criminal offence (art. 12). The prohibition of a second trial for the same crime is in article 14, paragraph 2, of the Constitution;

The principle of lawful punishment (art. 15 of the Covenant) is built into article 14, paragraph 1, of the Constitution, which determines the principle of legality as the basic principle for punishing perpetrators of criminal offences, and article 52, paragraph 4, which prohibits the retroactive effect of laws;

The right in article 17 of the Covenant concerning the respect of privacy and family life is guaranteed in articles 17, 18, 25 and 26 of the Constitution;

The guarantees in articles 18 and 19 of the Covenant are appropriately built into article 16 of the Constitution, guaranteeing the freedom of conscience, thought and public expression of thought, speech, public address and public information. The freedom of religious confession is guaranteed by article 19 of the Constitution;

The right to peaceful assembly and association (arts. 21 and 22 of the Covenant) is covered by the guarantees of freedom of political association and action by citizens (art. 20 of the Constitution), by the right to public protest (art. 21 of the Constitution), as well as by the guarantee of the right to organize trade unions and the right to strike (arts. 37 and 38 of the Constitution);

The right to conclude marriage and found a family, as well as special protection for the family (art. 23 of the Covenant) are guaranteed by articles 40 and 41 of the Constitution;

The rights of children in article 24 of the Covenant are contained in article 42 of the Constitution and article 40, paragraph 4, which foresees a particular protection for children without parents and children without parental care;

The right to participate in conducting public affairs, voting rights and the right to equal access to public service (art. 25 of the Covenant) are guaranteed in article 2, article 8, paragraph 1, item 5, and articles 22 and 23 of the Constitution;

Equality before the law and the right to equal legal protection (art. 26 of the Covenant) are built into the principle of equality of citizens before the law in article 9 of the Constitution;

The position and rights of members of the minorities guaranteed by article 27 of the Covenant are first determined in the Preamble to the Constitution, and later in article 8, article 9 and article 48 of the Constitution.

9. The rights and freedoms guaranteed by the Constitution of the Republic of Macedonia, and further elaborated in the domestic legislation, are enjoyed by all citizens over whom the jurisdiction of the Republic of Macedonia extends, regardless of whether they are citizens and regardless of the character of their legal or other link with the State of the Republic of Macedonia. According to article 9 of the Constitution, "citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of sex, race, colour of skin, national and social origin, political and religious beliefs, property and social status. All citizens are equal before the Constitution and law."

10. The characteristic of a citizen 2/ is relevant only in a limited number of cases that the Constitution foresees explicitly (the right to vote, conditions for performing public offices). The position of foreigners is determined in article 29 of the Constitution, according to which: "Foreign subjects in the Republic of Macedonia enjoy freedoms and rights guaranteed by the Constitution, under conditions regulated by law and international agreements. The Republic guarantees the right to asylum to foreign subjects and stateless persons ... Extradition of a foreign subject can be carried out only on the basis of a ratified international agreement and on the principle of reciprocity. A foreign subject cannot be extradited for a political criminal offence. Acts of terrorism are not regarded as political criminal offences."

11. Within the framework of the domestic legal system, human freedoms and rights represent a basic constitutional postulate. As a rule, they are realized directly on the basis of the Constitution, while the conditions and manner of their realization may be prescribed by law only if explicit constitutional authorization for this exists, and only within the framework of such authorization. The Republic of Macedonia, after it became independent, started extensive legislative activity directed towards implementation and operationalization of the rights and freedoms guaranteed by the Constitution, the International Covenant on Civil and Political Rights, the European Convention on Human Rights and other international documents on human rights.

Numerous laws were adopted, including the Criminal Code, the Criminal Procedure Code, the Law on the Execution of Sanctions, the Law on Courts, the Law on the Public Prosecutor's Office, the Law on the Republic Court Council, the Law on the Bar, the Law on the People's Ombudsman, the Family Law, the Law on Local Self-Government, the Law on Political Parties, the Law on Religious Communities and Religious Groups, the Law on Broadcasting, and many others. 3/

12. The protection of human freedoms and rights is guaranteed in article 50 of the Constitution of the Republic of Macedonia, according to which:

> "Every citizen has the right to invoke the protection of freedoms and rights determined by the Constitution before the regular courts, as well as before the Constitutional Court of the Republic of Macedonia, through a procedure that is based upon the principles of priority and urgency.
>
> "Judicial protection of the legality of individual acts of the State administration, as well as of other institutions carrying out a public mandate, is guaranteed.
>
> "A citizen has the right to be informed on human rights and basic freedoms, as well as actively to contribute, individually or jointly with others, to their promotion and protection."

13. The criminal and legal protection of the freedoms and rights of man and citizen is among the most efficient forms of protection in case of violation of human freedoms and rights. In a separate chapter under the title "Crimes against the Freedoms and Rights of Man and Citizen", the Criminal Code foresees the following crimes: violation of the equality of citizens (art. 137); violation of the right to use the language and the alphabet (art. 138); coercion (art. 139); unlawful arrest (art. 140); kidnapping (art. 141); torture (art. 142); mistreatment in performing a duty (art. 143); endangering security (art. 144); violation of the inviolability of a home (art. 145); unlawful search (art. 146); violation of confidentiality of letters and other parcels (art. 147); unauthorized publication of personal notes (art. 148); misuse of personal data (art. 149); unauthorized disclosure of a secret (art. 150); unauthorized tapping and audio recording (art. 151); unauthorized recording (art. 152); violation of the right to submit legal remedies (art. 153); prevention of the printing and distribution of printed materials (art. 154); prevention or hindering of a public assembly (art. 155); violation of the right to strike (art. 156); violation of the copyrights and related rights (art. 157). (See appendix 4 - Table 6.)

14. Apart from the protection for these freedoms and rights, the Criminal Code foresees protection also for the other rights by determining crimes against life and body (chap. XIV); crimes against honour and reputation (chap. XVIII); crimes against sexual freedom and sexual morality (chap XIX); crimes against marriage, family and youth (chap. XX); crimes against human health (chap. XXI); crimes against humanity and international law (chap. XXXIV).

15. The exercise of the judicial function is crucial for an efficient realization of this form of protection and especially its independence and

autonomy. Several provisions in the Law on Courts guarantee the independence of the courts in performing its judicial function (for more details, see article 14 of this report). In addition, for an efficient implementation of legal protection, the Law prescribes that every State organ, when this is placed in its competence, is obligated to provide for execution of a court decision. The execution of a court decision that has come into effect and is executable is implemented in the promptest and most efficient manner, and cannot be hindered by a decision of any other State organ.

16. Besides the regular courts, direct protection of the freedoms and rights of citizens can be realized also before the Constitutional Court of the Republic of Macedonia. Namely, according to article 110, paragraph 1, item 3, of the Constitution of the Republic of Macedonia, the Constitutional Court protects the freedoms and rights of the individual and citizen relating to the freedom of belief, conscience, thought and public expression of thought, political association and activity, as well as of the prohibition of discrimination among citizens on the grounds of sex, race, religion or national, social and political affiliation.

17. The procedure for protection of the freedoms and rights before the Constitutional Court is regulated by the rules of procedure of the Constitutional Court, according to which the citizen may demand protection of his freedoms and rights before the Constitutional Court within two months from the day the effective decision is delivered, i.e. from the day when a person learns that a violation has been committed, but not later than five years from the day when it was committed. As a rule, the Constitutional Court decides on the basis of a public hearing in which the participants in the procedure and the People's Ombudsman participate. With a decision on the protection of freedoms and rights, the Constitutional Court shall determine whether they have been violated, and depending upon this, it shall revoke the individual act, prohibit the action causing violence, or it shall reject the demand. The Constitutional Court may make a decision to suspend an individual act or action pending the final decision.

18. Apart from the direct constitutional and judicial protection, and within the framework of its basic competence (control of constitutionality and legality), the Constitutional Court ensures permanently a so-called abstract protection of human rights through the possibility to annul or revoke provisions of the laws and by-laws which are in contradiction to the Constitution, i.e. by which the constitutionally guaranteed rights are violated. In the period 1993-1997, the Constitutional Court of the Republic of Macedonia, in deciding on the conformity of laws with the Constitution, revoked in numerous cases specific provisions of laws and other regulations by which civil rights and freedoms guaranteed by the Constitution were violated.

19. For the protection of the constitutional and lawful rights of citizens that have been violated by agencies of the State administration or by other organs and organizations that have public authorization, the Constitution of the Republic of Macedonia foresees the institution of the Ombudsman. In conformity with the Law on the People's Ombudsman, the Ombudsman is elected by the Parliament of the Republic of Macedonia for a period of eight years, with the right to a second term. The Ombudsman has one or more deputies who are elected and dismissed by the Parliament of the Republic of Macedonia, upon his

proposal, for a term of eight years, with the right to a second term. The Ombudsman and his deputies have been elected in the Republic of Macedonia.

20. For the protection of the freedoms and rights of the individual and citizen, the Parliament of the Republic of Macedonia established the Permanent Survey Commission for the protection of freedoms and rights of citizen (art. 76, item 4, of the Constitution). Its findings are the basis for initiating a procedure for determining the responsibility of holders of public office who have endangered or violated the freedoms and rights of citizens. In its work, the Commission cooperates with scientific and professional organizations, relevant foreign and international bodies, as well as with the relevant working bodies of the Parliament.

Article 3. Equality between the sexes

21. The equality of the rights of men and women is derived from the general constitutional provision in article 9 about the equality of citizens, in which sex is one of the grounds for prohibition of discrimination. Thus, the Constitution of the Republic of Macedonia recognizes all the civil and political rights that are guaranteed by the International Covenant on Civil and Political Rights, under equal conditions for men and women (for example, women enjoy voting rights under the same conditions as men, as well as the right to hold public office, the right to citizenship, freedom of association, etc.).

22. Within the framework of the programme of technical assistance of the United Nations Development Programme (UNDP), the Republic of Macedonia participates in the regional project "Women in the development of countries of central and eastern Europe and the community of independent States". For this purpose, a Department for Promotion of Equality Between the Sexes was established in January 1997 at the Ministry of Labour and Social Policy. This Department directs and coordinates the national, regional and international activities that are aimed at promoting equality between the sexes. Also, the Department reviews laws, regulations and measures undertaken by the Government of the Republic of Macedonia in regard to the position of women and, in this sense, it offers its own proposals and initiatives. The Department influences the position of women in conformity with international conventions and documents that the Republic of Macedonia has ratified or adopted.

23. In the Republic of Macedonia there are 45 active women's non-governmental organizations that cover around 100,000 women.

Women in legislative, executive and judicial authorities and in local self-government

24. The second multi-party Parliament of the Republic of Macedonia was constituted after parliamentary elections held in 1994. The composition of Parliament has not changed significantly with respect to the number of female members of Parliament, because only four were elected while the first one had five female members. The total number of women nominated for the elections by all the political parties and independent candidates amounted to 7 per cent of the nominated candidates (126 out of 1,765).

25. The Government of the Republic of Macedonia consists of 20 ministers, 2 of whom are women, namely the Minister of Education and one Deputy Prime Minister.

26. At the Constitutional Court of the Republic of Macedonia, out of nine members, only one is a woman. Similarly, in the Republic Court Council, out of seven members there is only one woman. Of the total of 25 judges of the Supreme Court of the Republic of Macedonia, 6 (24 per cent) are women; in the three Appellate Courts, of the 88 judges, 36 (41 per cent) are women; and in the 27 courts of first instance, of the 543 judges, 283 (52 per cent) are women. Of the total number of 928 attorneys members of the Bar Association of the Republic of Macedonia, 209 are women.

27. The low participation of women in local self-management is evident. The figures from the local elections in 1990 show the following:

	Total	Women
Elected members of the Assembly of the city Council of Skopje	70	4
Elected members of the Assemblies of the local representative bodies	1 510	74

At the second local elections in 1996, of the 124 mayors of municipalities all are men, and of the elected 1,884 Municipal Council members, 102 are women.

28. In regard to the representation of women in the State administration, of the 4,592 employees in State administration bodies, 2,012 (43.8 per cent) are women. Of the 320 management staff in State administration bodies, 100 are women (31.25 per cent). The representation of women in management positions in relation to the total number of employed women in the State administration amounts to 4.9 per cent.

Women in the educational process

29. According to data, the percentage of women at all levels of education in the Republic of Macedonia is 50 per cent. In the primary schools, in the school year 1994/95, 48.3 per cent of the students were female as were 52.7 per cent of the teachers. Of the total number of students who completed their secondary education in 1994/95, 51.3 per cent were women. Of the total number of students in the school year 1995/96, 54.3 per cent were women showing the greatest interest for the following faculties: Faculty of Philology - 83.1 per cent; Faculty of Natural Sciences and Mathematics - 68.3 per cent; Faculty of Philosophy - 66.9 per cent; Faculty of Medicine - 65.5 per cent; Faculty of Economics - 64.7 per cent; Faculty of Law - 60.1 per cent; Faculty for Tourism and Catering - 53.6 per cent. A slight rise in the number of women graduate students is noticeable, from 57.7 per cent in 1995 to 57.8 per cent in 1996. Women received 37 per cent of the PhD and MS degrees in 1995.

Employment

30. In 1996, 37 per cent of employed persons were women. There was a slight reduction in the participation of women in economic activities from 70.9 per cent in 1992 to 68.9 per cent in 1993 and 67.1 per cent in 1994. In non-economic activities an increased participation of women can be noticed, from 29.1 per cent in 1992, to 31 per cent in 1993 and 32.9 per cent in 1994. Of the total number of unemployed persons in 1996, 46.9 were women.

Articles 4 and 5. Restrictions on rights and freedoms

31. According to article 54 of the Constitution, freedoms and rights of the individual and citizen can be restricted only in cases determined by the Constitution. The freedoms and rights of the individual and citizen can be restricted during states of war or emergency, in accordance with the provisions of the Constitution. The restriction of freedoms and rights cannot be based on the grounds of sex, race, colour of skin, language, religion, national or social origin, property or social status. The restriction of freedoms and rights does not apply to the right to life, the prohibition of torture, inhuman or degrading treatment or punishment, the legal determination of punishable offences and sentences, or to the freedom of personal conviction - conscience, thought and religious confession.

32. The Constitution of the Republic of Macedonia foresees two kinds of restrictions of human freedoms and rights: restrictions that are enumerated for specific freedoms and rights, 4/ and a general provision on the restriction of freedoms and rights during a war or an emergency.

33. The provision laid down in paragraph 1 of article 54 of the Constitution is significant because it determines that restrictions on freedoms and rights may be imposed only in the cases foreseen in the Constitution. In other words, they cannot be the subject of regulation by some other legal act that is lower than the Constitution, if there are no clear constitutional grounds for this. In the second paragraph of this article, and in accordance with article 4 of the Covenant, war and emergency are foreseen as relevant circumstances under which the freedoms and rights may be restricted. The terms war and emergency situation are defined by the Constitution itself, according to which war occurs when there is direct danger of war by an attack upon the Republic of Macedonia, or when the Republic is attacked or war has been declared (art. 124 of the Constitution). An emergency, according to article 125 of the Constitution, ensues when large natural disasters or epidemics happen. A state of war is declared by Parliament by a two thirds majority of the total number of representatives, upon the proposal of the President, the Government, or at least 30 representatives. If Parliament cannot meet, the decision for declaring a state of war is made by the President of the Republic, who submits it to the Parliament for approval as soon as it can meet. The same rules apply to emergency situations; however, according to the Constitution, a decision is adopted announcing an emergency situation for the maximum period of 30 days.

34. In case of war or an emergency, the Government passes acts with legal power, in conformity with the Constitution. This authorization of the Government lasts until the end of the war or the emergency, and Parliament

decides on this. During a state of war, if the Parliament cannot meet, the President may appoint and recall the Government and appoint and recall officials appointed and elected by the Parliament. The mandates of the President of the Republic, of members of Parliament, of the judges of the Constitutional Court and other judges, and of the members of the Republic Court Council are extended during a period of state of war or emergency.

35. The responsibilities of the State authorities (Parliament, President of the Republic, Government, Ministry of Defence and other bodies of State administration) in the field of defence are regulated by the Law on Defence.

36. The Government may not adopt acts which derogate from provisions from the Constitution relating to human rights and freedoms that are implemented directly on the basis of the Constitution. However, with regard to those freedoms and rights for which, according to the Constitution, the conditions and manner of implementation are prescribed by law, the possibility remains for these to be regulated differently under conditions of a state of war, by an act of the Government. Such an act of the Government may not suspend provisions of the Constitution, which means that they may not suspend the respective rights, either; only a stricter and more restrictive regime of implementation may be stipulated (for example, in relation to the right to work, freedom of movement and residence, etc.).

37. The provisions of article 54, paragraphs 3 and 4, of the Constitution are in accordance with article 4 of the Covenant. They stipulate a prohibition of discrimination in cases of restriction of human freedoms and rights, as well as an explicit prohibition on restricting specific human freedoms and rights.

38. In the legal system of the Republic of Macedonia, the issue of the relationship between domestic and international law is a constitutional and a legal matter. According to article 118 of the Constitution, which deals with international relations, the international agreements that have been ratified in accordance with the Constitution are a part of the domestic legal system and may not be changed by law. Therefore, and in conformity with article 98, paragraph 2, of the Constitution: "The courts judge on the basis of the Constitution and laws and international agreements ratified in accordance with the Constitution."

39. According to article 8 of the Constitution, the basic freedoms and rights of the individual and citizen, recognized by international law and determined by the Constitution, as well as the respect of generally accepted norms of international law, are fundamental values of the constitutional system of the Republic of Macedonia. In this sense, rights that are recognized in international documents, among them the rights determined and guaranteed by the International Covenant on Civil and Political Rights, are included in full in the Constitution and in the domestic legislation.

Article 6. Right to life

40. The right to life, as a basic human right, is guaranteed in article 10 of the Constitution of the Republic of Macedonia, according to which: "The human right to life is irrevocable". This article foresees unconditional

protection against any kind of threats to human life, not only from intentional deprivation of life. The fundamental nature of the right to life is also confirmed by article 54 of the Constitution which determines the cases when the freedoms and rights of the individual and citizen may be restricted and which states that this restriction cannot apply to the right to life.

41. The legal protection of life is elaborated in the Criminal Code which categories several crimes with the object of protecting human life. These criminal offences are grouped under the heading Crimes against Life and Body. The crimes in this chapter are divided into several groups:

(a) Crimes of deprivation of life: murder (art. 123), murder with noble motives (art. 124), momentary murder (art. 125), murder due to negligence (art. 126), murder of a child at birth (art. 127), and instigation to suicide and helping in suicide (art. 128);

(b) Crimes of destruction of future life (embryo): unlawful interruption of pregnancy (art. 129);

(c) Crimes of bodily injury: bodily injury (art. 130) and grave bodily injury (art. 131);

(d) Crimes of endangerment: participation in a brawl (art. 132), threatening with a dangerous instrument during a brawl or a quarrel (art. 133), and exposure to danger (art. 134); and

(e) Crimes of not affording help/assistance: not affording help to a helpless person (art. 135) and not giving help (art. 136).

42. Article 6 of the Covenant prohibits arbitrary deprivation of life. The protection against arbitrary deprivation of life, and especially preventing deprivation of life as a result of applying force when performing their official duty by members of the police and the security forces, is implemented in the legislation of the Republic of Macedonia by prescribing by law the conditions when they may use firearms. According to article 35 of the Law on Internal Affairs, an authorized official of the Ministry of Internal Affairs shall use a firearm when with other means of constraint he cannot: (a) protect the life of citizens; (b) repulse a direct attack that threatens his life; (c) to protect a building or a person under protection that is being secured; and (d) prevent the escape of a person who was caught in the act of a criminal offence for which a penalty of imprisonment for at least five years is prescribed, as well as the escape of an arrested person or of a person for whom an arrest warrant has been issued for committing such a criminal offence.

43. Authorized persons who undertake official actions directly under the leadership of a responsible person may use means of coercion or firearms only upon his explicit command (art. 36). Before using means of coercion or firearms, the authorized official is obligated to give an oral warning to the person against whom this means, i.e. firearms, is to be used. The grounds, justification and regularity of the use of means of constraint and firearms in any concrete case are assessed by the superior responsible person. If the means of constraint or firearms were used within the limits of authorization and in conformity with the law, the authorized person that used them and the

responsible person that ordered their use are exempted from responsibility, is a person who assisted in the performing of the official matters upon a call from the Ministry or of an authorized official.

44. The manner of use of a firearms and means of coercion are regulated in more detail by the Instruction for the Use of Firearms and Means of Coercion, issued by the Minister of Internal Affairs. According to the data of the Ministry in the period 1993 to 30 June 1997, firearms have been used as means of coercion by officers of the Ministry in 19 cases. As a consequence of the use of firearms during this period, seven persons lost their lives, namely three in 1993, three in 1994 and one in 1995. It was concluded that during this period, only in one case (in 1993) had excessive force been used and a procedure for determining responsibility was instituted against the police officer.

45. Provisions for the use of firearms and means of constraint are contained in article 185 of the Law on Execution of Sanctions, according to which a member of the security forces, when performing an official action, may use firearms only if he cannot act otherwise: (a) to protect human life; (b) to repel a direct attack that threatens his life; (c) to repel an attack upon the building which he is securing; (d) to prevent the escape of a convicted person from an institution of the closed type or to prevent the escape of a convicted person he is escorting, if the person has been convicted of a criminal offence for which a punishment of 15 years or more of imprisonment is foreseen. A firearm may be used only upon orders from the director of the institution or of an official person that manages the security service, and then only if the use of other means of constraint cannot provide the execution of the official action. When using a firearm, the member of the security force is obliged to be attentive not to endanger the lives of other persons.

46. Upon the use of means of constraint and firearms, a written report must be submitted to the Directorate responsible for the execution of sanctions, which evaluates the justification for using the means of coercion. According to data from penal and correctional institutions firearms in prisons were used in only one case (in 1992). The firearm was used as a warning, and there were no victims. In the period 1993 to 1997, there were no cases of use of firearms in the penal and correction institutions in the Republic of Macedonia. (Regarding the use of means of coercion in the prisons, see the explanation on article 7 of this report.)

47. Legal protection of the right to life is implemented also by prescribing the right to compensation when death was caused by intention or by negligence. This right could be legally exercised by using the regulations of civil law, foreseen in the Law on Obligations.

48. Capital punishment is not provided for in the legal system of the Republic of Macedonia. Article 10, paragraph 2, of the 1991 Constitution determines that "The death penalty shall not be imposed on any grounds whatsoever in the Republic of Macedonia". The Republic of Macedonia has ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights. At the beginning of 1997, the Republic of Macedonia

ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms, and Protocol No. 6 for the abolition of the death penalty.

49. The Republic of Macedonia, as a legal successor of the former Socialist Federal Republic of Yugoslavia (SFRY), acceded in 1993 to the Convention on the Prevention and Punishment of the Crime of Genocide (ratified by the former SFRY on 21 June 1950) and the Convention on the Non-Applicability of Statutory Limitations to War Crimes Against Humanity (ratified by the former SFRY on 11 November 1970).

50. In the group of crimes against humanity and international law, among others, the Criminal Code foresees the crimes of genocide (art. 403), war crimes against the civil population (art. 404), war crimes against the wounded and ill (art. 405), war crimes against prisoners of war (art. 406), organizing a group for instigation to genocide and war crimes (art. 408), unlawful killing and wounding of an enemy (art. 409), instigation to aggressive war (art. 415), international terrorism (art. 410), etc. In article 112, the Criminal Code foresees the non-applicability of statutory limitations for criminal prosecution and execution of a penalty for these crimes, as well as for those crimes for which non-applicability of statutory limitations is foreseen within ratified internatioinal agreements.

51. According to the official data of the Statistical Office of the Republic of Macedonia, in 1994 in the Republic of Macedonia a total of 33,487 persons were born, while 165,771 died, of which 752 were infants. The natural growth of the population amounted to 17,716 persons. The rate of live new-borns per 1,000 inhabitants was 15.9, while that of deceased persons was 7.5. The rate of deceased infants per 1,000 live new-borns was 22.5. The average life expectancy in the Republic of Macedonia for men was 70.1 years, and 74.4 years for women. The average age of the population is 30 years for men and 33.9 for women. Of the 33,487 live children born in 1994, 17,252 or 51.5 per cent were male and 16,235 or 48.5 per cent were female. The number of stillborn children in 1994 was 330, of which 50.3 per cent were male and 49.7 per cent were female.

52. According to the data of the Ministry of Internal Affairs, during the period 1993-1997 a total of 531 cases of disappeared persons were reported, of whom 358 were discovered (both alive and dead): 18 were found dead, and in 3 cases it was determined that they had died by force. During the same period, 176 murders were registered, 21 cases of grave bodily injury with death as the consequence, 517 suicides and 307 accidents.

Article 7. Prohibition of torture and cruel, inhuman or degrading treatment or punishment

53. The prohibition of torture and inhuman or degrading treatment or punishment is foreseen in article 11 of the Constitution of the Republic of Macedonia according to which "The human right to physical and moral dignity is irrevocable. Any form of torture, or inhuman or degrading treatment or punishment, is prohibited. Article 54, paragraph 4, of the Constitution excludes any possibility of restriction of this right. The quoted provisions of the Constitution like article 7 of the Covenant does not define the notion

of torture, nor does it specify the perpetrator of torture: this may be anyone who tortures another, or treats or punishes him inhumanely or with degradation.

Torture and other forms of inhuman or degrading treatment or punishment in the legislation of the Republic of Macedonia

54. In article 142, the Criminal Code foresees the crime torture, determining that: (a) a person who while performing his duty applies force, threat or some other prohibited means or prohibited manner, with the intention to extort a confession or some other statement from an accused, a witness, an expert or from some other person, shall be punished with imprisonment of three months to five years; (b) if the extortion of a confession or statement was followed with severe violence or if because of the extorted confession or statement the accused suffered especially severe consequences in the criminal procedure, the offender shall be punished with imprisonment of at least one year.

55. Apart from this criminal offence, the Criminal Code also contains the following crimes: murder (art. 123), bodily injury (art. 130), grave bodily injury (art. 131), coercion (art. 139), kidnapping (art. 141), mistreatment in performing a duty (art. 143), endangering security (art. 144), rape (art. 186), rape of a helpless person (art. 187), sexual assault upon a child (art. 188), neglecting and mistreating a juvenile (art. 201), extortion (art. 258), blackmail (art. 259), mistreatment of a subordinate or a younger person (art. 335), coercion against a judicial employee (art. 375), act of violence (art. 386). (See annex 4, table 7.)

56. The Law on Criminal Procedure foresees in article 15 an unconditional exclusion of invalid evidence, prescribing that evidence obtained in an unlawful manner or by violating the freedoms and rights determined by the Constitution, law and ratified international agreements, as well as evidence derived from these, cannot be used and a court decision may not be based on them. The Law on Criminal Procedure also prescribes the manner of interrogation, determining that the personality of the accused should be respected. The use of force, threat or other similar means of eliciting a statement or confession is prohibited. Article 251, paragraph 2 explicitly prohibits the application of medical interventions and means against an accused or witness which would influence their free will when giving a statement. A court decision cannot be based on the statement of an accused or witness so coerced, i.e. this represents a breach of the rules of criminal procedure, and is grounds for appeal.

57. Also, the Law on Movement and Residence of Foreigners (which regulates the manner of execution of the security measure of deportation of a foreigner), foresees in article 39 that a forced deportation of a foreigner from the Republic of Macedonia to some other State shall not be allowed if there is danger that the foreigner will be exposed to mistreatment and inhuman behaviour.

58. The prohibition of torture and inhuman and degrading treatment or punishment is of an absolute nature, so that the violation of this prohibition cannot be justified by executing an order from a superior. In this sense, the

Law on Internal Affairs in article 6 foresees that an employee of the Ministry is obliged to execute the orders of the Minister or some other employee authorized by him, given in connection with the performing of the functions of the Ministry, except if the execution of the order represents a criminal offence. The same provision is contained in the Regulations on the Manner of Performing Guard Duty in Penal and Educational Institutions. According to the Law on Defence, orders from a superior officer in the army are not to be executed if their execution is a criminal offence. The Criminal Code foresees that a subordinate shall not be punished if he commits a criminal offence upon orders from a superior when such order concerns official duty, except if the order was aimed at performing a war crime or some other grave crime, or if he knew that the execution of the order was a criminal offence.

The use of means of coercion by the police and members of the security forces in penal and educational institutions

59. The legislation in the Republic of Macedonia has determined precisely the conditions under which the police and security forces may apply means of constraint, thus placing the use of force in a legal framework, and the grounds have been laid for an objective assessment of whether the application of force by officers with police authorization constitutes an act of torture, or inhuman treatment or punishment. According to article 34 of the Law on Internal Affairs, an authorized official may use means of coercion: (a) to restore peace and order that have been disturbed to a large extent; (b) to subdue resistance from a person who is disturbing the peace and order, or a person that needs to be arrested, restrained or detained; (c) to repel an attack upon himself, upon some other person or a building that is being secured; (d) to remove a person from a specific location, as well as a person who is not acting on the orders of an authorized officer. Authorized officers that perform official actions directly under the leadership of a responsible employee may use means of coercion only upon his command. If the means of coercion or firearms are used within the limits of the authorization the officer who has used them is not considered responsible nor is the employee who ordered their use. The manner of use of firearms and means of coercion by members of the police are regulated by the Instruction issued by the Minister of Internal Affairs.

60. Violation of the rules and regulations of the Ministry, as well as performing an action which is a criminal offence according to the Law on Internal Affairs, (crimes against the rights and freedoms of the individual and citizen, and serious crimes against life and body), is, according to article 65 of the Law, a violation of work discipline. For serious breaches of work discipline, the office responsible may be temporarily suspended, or he may also be fired. The penalties are prescribed in an act of the Minister of Internal Affairs.

61. According to data from that Ministry, in the period 1993-30 June 1997, 1,009 cases of officers of the Ministry using means of constraint on various grounds against 4,813 persons were registered. These included: 19 cases of firearms, being used, 519 cases of use of truncheons, physical force used in 461 cases and chemical means in 10 cases. The use of means of coercion in this period resulted in the death of 8 persons, 3 of whom were killed in 1993 by firearms, 4 deaths of persons in 1994 (3 from firearmns and 1 after applied

physical force), and 1 death in 1995, also by use of firearms. The use of physical force caused 7 persons to receive grave bodily injury, 3 of them in 1993 (2 by firearms) and 1 person each in 1995 (by a firearm) and in 1996 (applied physical force). In each case when excessive force was used (a total of 31), proceedings for determining the degree of responsibility was initiated. After the proceedings were completed, various disciplinary measures were pronounced against 12 police officers, and a criminal proceedings was initiated against 6 officers. In 1993, excessive force was used in 10 cases (6 with use of a truncheon, 3 with use of physical force and 1 with use of a firearm). Disciplinary measures were taken against 4 officers and criminal proceedings were initiated against 2 officers. In 1994, 5 cases of use of excessive force (3 with the use of physical force and 2 with the use of a stick) were registered; disciplinary measures were taken against 2 police officers and criminal proceedings were initiated against 4 officers. In 1995, 10 cases of use of excessive force (6 with the use of a stick and 4 with the use of a firearm) were registered; disciplinary measures were taken against 2 officers. In 1996, 5 cases of use of excessive force (4 with the use of a stick and 1 with the use of physical force) were registered; disciplinary measures were taken against 3 police officers. During the first half of 1997, 1 case of use of excessive force was registered and after the disciplinary procedure was completed, a disciplinary measure was taken against 1 officer.

62. The Law on Execution of Sanctions foresees in article 184 the conditions when means of coercion may be used against a convicted person: when this is necessary for preventing an escape from an institution and escape during escort, a physical attack, infliction of an injury, self-injury, causing material damages and opposing resistance of sentenced persons, on the basis of a legitimate order from an officer. The Law also defines the means of coercion: separation, tying, truncheon, water hoses and chemical means. Article 19, paragraph 4, explicitly prohibits collective punishment of sentenced persons, as well as the use of firearms and other means of coercion as punishment.

63. The manner of use of means of coercion is regulated in detail by the Instruction on Use of Firearms and Other Means of Coercion. According to this Instruction, a member of the guard escorting an arrested person shall restrain the person if he receives a written order from the director of the institution (if this concerns a sentenced person), or from the president of the court (if this concerns a detained person). Without a written order, a member of the security forces may restrain all detained persons who give resistance during escort, who try to escape, who attack the escort or some other person, as well as when it is supposed with reason that the person being escorted may inflict self-injury or commit suicide, when persons are escorted who have been arrested on the grounds of a wanted circular and who have already tried to escape from detention or from serving a sentence, as well as in other cases when there is reason to believe that the escorted person will try to escape.

64. A member of the security forces may restrain an arrested person who gives such resistance in an institution that he cannot otherwise be restrained, nor can order and discipline be restored. In such cases, the member of the security forces is obliged to inform the director of the institution promptly as well as the officer on duty. The restraint is terminated when the reasons for which it was imposed have ceased. According

to the Instructions, this measure is applied by binding the hands of the person with handcuffs in a manner so as not to inflict bodily injuries. Tying of feet may be applied as an exception, when the situation requires this. Binding in some other manner (placing the person in fetters, binding to a pole in the yard of the institution, etc.) is prohibited.

65. A member of the security forces may temporarily separate and place in a special room an arrested person who because of his actions represents a serious threat to the security of officers and other persons, and he must immediately inform the director of the institution or, after working hours, the officer on duty of his action.

66. A member of the security forces may use the stick and physical force for overcoming active or passive resistance by an arrested person in cases when it is necessary to prevent his escape, a physical attack upon a member of the security forces or other personnel, infliction of injuries upon some other person, self-injury, material damage, an attack upon a building that is secured by a member of the security forces, as well as when it is necessary to prevent physical resistance by an arrested person.

67. The Instruction defines the notions of active and passive resistance. There is active resistance when the arrested person gives resistance by using arms, tools, other objects or by physical force (breaks away, wrestles, pushes, hides behind various objects, etc.), and in this way makes it impossible for the guard to perform his task; passive resistance occurs when the arrested person does not respond to a call or to legitimate orders from the guard, placing himself in such a position (by lying down on the ground, kneeling, getting a hold on some object, stopping and not wanting to leave, etc.) that makes it impossible to perform the official action. If the arrested person gives passive resistance, a stick is not used as a rule, except if the passive resistance makes the intervention by the guard impossible, if there are no other possibilities to overcome such resistance, or if the use of more moderate means remains without success. The guard is obligated to cease using the stick immediately when the direct attack by the arrested person stops. When using the stick, the guard is obligated to avoid as much as possible hitting the head and other sensitive parts of the body.

68. Binding and the truncheon may not be applied against arrested persons who are evidently ill, old or worn out, or against invalids, as well as against arrested women whose pregnancy is visible, regardless of their offence, except when such persons threaten the life of the escorting guard or some other person with a firearm.

69. A guard may use a chemical means only if there is a grave disturbance of the peace and order by several arrested persons, if there is a massive brawl, if several persons refuse obedience, if one or more persons are barricaded in a closed room, or if they prevent in some other way a guard from reaching them, as well as if firearms are used. For the purpose of restoring gravely disturbed peace and order by several arrested persons, a guard may use water hoses.

70. According to the Instructions, when there is a need to apply several means of coercion, the means to be used should be the lightest according to its consequences for the person against whom it is applied, if its application permits the execution of the official task.

71. A report is prepared on the use of means of coercion stating the reasons why the means of coercion were applied. The report is submitted to the Ministry of Justice, Department for the Execution of Sanctions, which evaluates the justification for applying the means of constraint. If the means of coercion were applied in conformity with the law, the officer who applied or ordered the use is exempted from responsibility. However, if he exceeded his authority, disciplinary action will be initiated against the officer.

72. In regard to disciplinary responsibility of the security officers and of the prison staff in general, the Law on the Execution of Sanctions refers to the general regulations on employment, i.e. the Law on Labour Relations and the Law on Administration Organs (arts. 205-212), which foresee disciplinary actions against employees for violation of work duties and other violations of work discipline, especially if he does not perform the tasks entrusted to him conscientiously and properly or if he does not abide by the law and other regulations or rules of behaviour during work or in connection with work. Disciplinary measures are pronounced by the director of the institution, who establishes a commission to carrying out a disciplinary procedure. After the procedure is concluded, the Director passes a ruling according to the Law on Labour Relations. The right to appeal is guaranteed. An appeal may be submitted to the second-level disciplinary commission of the Government of the Republic of Macedonia. The appeal should be submitted within 15 days from the day when the ruling was received. If the person is not satisfied with the decision of this second-instance disciplinary commission, he has the right to initiate a procedure for an administrative dispute before the Supreme Court of the Republic of Macedonia. If there are elements of a criminal nature, criminal proceedings could be initiated against the perpetrator.

73. According to the data of the Ministry of Justice, in the period 1993 to 1997, means of constraint were used in 15 cases: in 1994 in 4 cases, in 1995 in 4 cases, in 1996 in 3 cases, and in 1997 in 4 cases. For all these cases a report was submitted to the Ministry of Justice. There were no reported cases of excessive use of force in using means of constraint.

Treatment of detained persons

74. Treatment of detained persons is regulated by the Criminal Procedure Code. The basic principle is that execution of the measure of detention may not insult the personality and dignity of the accused and that only the restrictions that are necessary for preventing escape or hinder the successful conduct of proceedings may be used against a detainee. The position of the detained person during the period of detention is regulated in detail by several provisions in the law that prescribes the rights of detained persons. Detained persons have the right to an eight-hour uninterrupted rest every 24 hours, as well as the right to stay in an open space in the prison for at least two hours per day. These rights are recognized unconditionally. Apart from that, detained persons have the right to eat at their own expense, to

wear their own clothes and to use their own bedding, to procure books, papers and other matter which meet their regular needs at their own expense, but only to the extent which does not influence the successful conduct of proceedings. Decisions in this regard are passed by the investigating judge.

75. With the approval of the investigating judge who is conducting the investigation and under his supervision, and within the limits of the house rules, the detainee may be visited by close relatives and, upon his demand, a doctor and other persons. Specific visits may be forbidden if they could have a negative influence on the conduct of proceedings. In case of disciplinary violations, the investigating judge or the president of the court council may restrict visits. The punishment cannot restrict communication of the detainee with his defence counsel. An appeal to the court council is allowed against a disciplinary punishment. The detainee may have correspondence with persons outside the prison. The investigating judge has to be informed about the communication. He/she may prohibit sending and receiving letters and parcels which have an influence on the conduct of proceedings. Sending a plea, complaint or appeal can never be prohibited.

76. Foreign citizens who are detained may, with the approval of the investigating judge, receive visits by officials of diplomatic and consular representatives in the Republic of Macedonia. These visits are not supervised.

Treatment of persons serving a prison sentence

77. Treatment of persons who are serving a prison sentence is regulated by the Law on the Execution of Sanctions. Article 12, paragraph 2, explicitly prohibits torture and inhuman or degrading treatment or punishment of sentenced persons. The principle of humanity in the execution of criminal sanctions is foreseen in several provisions of the Law. These provisions oblige the competent authorities, inter alia, to treat sentenced persons humanely, to respect their personality and human dignity, to ensure their right to personal safety, to care about the protection of their physical and moral integrity and their physical and mental health. In the application of this principle an effort is made to avoid unnecessary pain and sufferings by the sentenced persons, as well as circumstances which in some way could worsen their already unfavourable situation. The ultimate expressions of this principle in the Republic of Macedonia are the revoking of the death penalty and, logically, the non-existence of norms for its execution. (For more details on the application of the principle of humanity in the execution of punishment with imprisonment, see the explanation to article 10 of this report.)

Disciplinary punishment of sentenced persons

78. Disciplinary punishment of sentenced persons is regulated by the Law on the Execution of Sanctions, which prescribes the types of disciplinary penalties, the conditions for their application and the manner of their execution. For violation of order and discipline, the following disciplinary measures may be applied against sentenced persons: reprimand, public reprimand, withholding of a part of the compensation for work to an amount of

20 per cent, restricting the awarding of benefits of up to three months if the sentenced person abuses the benefits he has received, and solitary confinement for 3 to 15 days, with or without the right to work.

79. A hearing of the sentenced person must be held during the disciplinary proceedings and his statements must be checked. In pronouncing a disciplinary punishment, the conduct of the sentenced person and whether he has been disciplined in the past have to be taken into consideration.

80. The Law allows the possibility to conditionally delay the execution of the disciplinary punishment of solitary confinement for up to 6 months, if there are grounds to expect that its goal would be achieved even without its execution. The conditional delay in execution will be revoked if the prisoner, during the period for which execution was delayed, is disciplined again, in which case a single punishment shall be ordered both for the previous and for the new disciplinary violation, whereby solitary confinement may be pronounced for a duration of 30 days. The disciplinary punishment of solitary confinement is ordered by the director of the institution or his deputy. Before the serving of this punishment starts, an opinion must be requested from a physician concerning the health condition of the sentenced person. During the execution of the punishment, the necessary sanitary and health conditions must be ensured and the prisoner enabled to read books and papers. He must be allowed to stay in fresh air, outside of the closed premises, for one hour a day. He also has a right to one visit by a physician per day, and by the director of the institution once a week. Solitary confinement shall not be executed or it shall be stayed if it endangers the life of the sentenced person. Also, the director of the institution may halt the punishment if he concludes that the goal of the punishment has been achieved.

81. According to the data of the largest penal and correctional institution in Macedonia - "Idrizovo" in Skopje - in the period 1993-1997, the measure of solitary confinement was taken in 480 cases: 139 persons in 1993, 123 in 1994, 88 in 1995, 80 in 1996 and 50 in 1997 (ending with 1 September 1997). During the same period, the measure was administered conditionally in 226 cases.

82. Solitary confinement of up to six months continuously may be ordered against a sentenced person who by his actions seriously endangers the security in the institution or represents a serious threat to the security of other persons, if other applied disciplinary punishments were unsuccessful. Solitary confinement is ordered by the director of the Directorate for the Execution of Sanctions. The sentenced person has the right to appeal this ruling within three days, to the Minister of Justice. The appeal does not stay the execution of the ruling. The procedure for resolving the appeal is urgent.

83. During solitary confinement, the sentenced person is not sent to work. He is provided access to fresh air outside of closed premises for two hours per day. As an exception, he may perform some work in the premises in which he is serving the measure of solitary confinement. During solitary confinement, the sentenced person is visited by the physician every day, and the director of the institution at least once in 15 days. Upon the proposal

of the director of the institution, the director of the Directorate shall halt the solitary confinement if the findings of the physician are that further solitary confinement would be harmful to the health of the sentenced person, or that solitary confinement is no longer necessary.

84. The measure of solitary confinement may not be ordered against a juvenile.

85. In the period 1993-1997, the measure of solitary confinement was ordered in 12 cases during 1995, against the organizers of the rebellion in the Penal and Educational Centre "Idrizovo". According to the then valid Law on the Execution of Sanctions for Crimes and Economic Violations, solitary confinement could be ordered for up to one year. The measure of solitary confinement was revoked before the expiration of its duration for all 12 persons who received this measure, for one person after 8 months, for one person after serving 4 months, for nine persons after 2 months and for one person after 1 month.

Conduct of prison staff towards sentenced persons

86. The Law on the Execution of Sanctions also contains special provisions that regulate the relations of officials towards sentenced persons. In article 159 it is determined that officials in institutions, in the performance of their duties and in their contacts and communications with sentenced persons, should behave with due attention to the personality of the prisoners, with a calm approach, tolerance, tact, seriousness and the necessary firmness and fairness to stimulate their self-respect and feelings of personal responsibility. The officials should perform their duties honestly and objectively, without malice or bad intentions, regardless of the position, sex, race, nationality, religion and political beliefs of the sentenced persons.

Legal means for protection of the rights of sentenced persons

87. Apart from that, the Law on the Execution of Sanctions also contains special provisions concerning the protection of the rights of sentenced persons through legal means. In article 163 the right has been foreseen for convicted persons to submit legal petitions and other documents for the protection of their rights in regard to their position and treatment in the institution. Sentenced persons have the right to complain orally to the director of the institution concerning a violation of their rights or an irregularity in their treatment as well as the right to a written complaint within 15 days from the day the violation was committed. The director of the institution is obligated to investigate the complaint and to pass a ruling within 15 days. If the sentenced person is not satisfied with the ruling, or if the director does not act within the prescribed period, the sentenced person has the right to appeal to the Directorate for the Execution of Sanctions. The ruling of the Directorate is final and the sentenced person has the right to legal protection before a court of justice.

Training of the police and members of the security staff in prisons

88. Training and education of the members of the police in regard to the prohibition of torture is part of their training and education system. The programme was prepared within the context of the positive legislation of the Republic of Macedonia and it is followed at all levels of education of the police staff, with the goal of promoting and developing a civilized, cultured and humane link between the police and the citizens. The students at the Faculty of Security and at the secondary school for the education of police personnel are especially made attentive to the human aspects of conduct towards citizens and respect for their dignity, within the framework of the legal organization and functioning of the police, methods of investigation, combat skills, and protection of the constitutional system.

89. Education and training are also implemented by organizing seminars, such as those held in 1996 organized by the Council of Europe and the Ministry of Internal Affairs. The topic of the first one was Protection of the rights and freedoms of citizens in order to avoid abuse of official position and use of torture, and the second one was on the topic of Human rights. At the seminars, special attention was devoted to the arrest procedure, the duration of detention, the use of means of coercion, respect of personal dignity of the arrested person, etc.

90. When talking about the training of members of the security forces in penal and correctional institutions, it must be noted that the Ministry of Justice organizes courses every year, in cooperation with the Staff and Training Centre, for the purpose of a successful, efficient and legal execution of security activities. This activity is implemented by the Ministry of Justice in cooperation with the Association for Penology of the Republic of Macedonia.

Punishing students and treatment of patients

91. In the Republic of Macedonia, physical punishment and psychological mistreatment of students is prohibited by law (the Law on Primary Education and the Law on Secondary Education).

92. The Law on Health Care prescribes the obligation for health workers, when providing health care, to care about the users to whom they are providing health care, to respect their dignity, to adhere to the medical ethics, and to maintain professional confidentiality. Considering that medical treatment could also present a threat to the physical integrity of man, article 50 of the Law on Health Care foresees that surgical and other interventions can be undertaken only with written approval from the patient, or the parent or guardian in the case of a juvenile or a person deprived of legal capacity. The condition of approval may be side-stepped only in urgent cases, such as when the life of the patient is in danger, or when he is in such a state that he cannot decide himself, or when, because of the urgency, it is not possible to get approval from a close member of his family or from the parent or guardian. In such a case, the surgical intervention may be undertaken without approval, if so decided by at least two doctors of medicine, specialists in the appropriate surgical branch.

93. The patient not satisfied with the medical care provided or not satisfied with the conduct of the health worker may submit a complaint to the chief executive officer of the health-care organization who is obliged, within three days, and in urgent cases immediately, to review the complaint and inform the complainant in writing about the facts he has determined and the measures he has taken. If the patient is not satisfied with the measures taken, he has the right to pursue his demand to the Ministry of Health, which is legally obliged to consider the allegations set out in his complaint.

94. If there are consequences during or after treatment, i.e. disability, the patient or his family has the right to demand that a study be made of the health care which was provided. According to article 55 of the Law, the beneficiary of health care has the right to demand compensation for damages, in accordance with the regulations on obligation relationships, if there are consequences from improper treatment or errors.

95. The Criminal Code foresees the possibility of criminal prosecution for unconscientious treatment of the ill. The crime is perpetrated by a doctor who during treatment applies an evidently inappropriate means or manner of treatment, or who shall not apply appropriate sanitary measures, or who acts unscrupulously in general, thus causing a deterioration in the state of health of some person. The law foresees a fine or imprisonment of up to three years. The same punishment is foreseen also when the perpetrator is a midwife or some other health-care worker. When the crime was committed in negligence, the punishment may be a fine or imprisonment of up to one year.

96. Apart from this, the crime of not providing medical assistance is foreseen in the relevant provisions of the Criminal Code. This crime involves not providing urgent medical assistance to a person whose life is in danger (foreseen punishment is imprisonment of up to one year or a fine; if death results, the punishment is imprisonment of six months to five years), as well as the crime of quackery which covers dealing in treatment or in providing medical assistance without the prescribed professional training (punishment is imprisonment of up to one year and a fine). The criminalization of these three acts are strong guarantees against inhuman and degrading treatment of patients during medical treatment and immediately thereafter.

Medical experiments

97. A significant novelty is article 20 of the law on the Execution of Sanctions. This legal provision determines that sentenced persons may not be subjected to medical or other experiments by which their physical, psychological or moral integrity is disturbed, and that the consent of sentenced persons to their participation in the experiment does not limit the responsibility of the person who approved it.

98. The Criminal Procedure Code in article 251 foresees that a physical examination of the accused shall be performed even without his consent if it is necessary to determine facts that are important for the criminal proceedings. A physical examination of other persons may be performed without their consent only when it must be determined whether there is a specific trace on their body or consequences of a criminal offence. It is not

permitted to undertake medical interventions upon an accused person or a witness or to give them such means as would influence their will when giving a statement.

99. The Law on Scientific Research Activity foresees as one of the fundamental principles in performing scientific research the principle of inviolability of human integrity, protection of the personality and dignity of man, and the principle of ethics. Detailed provisions about bio-medical research are contained in the Code of Medical Deontology, enacted by the Medical Association of Macedonia, which prescribes that forced bio-medical research on humans represents the gravest violation of ethical principles of the medical profession. Strictly controlled procedures for testing new scientific methods upon humans are allowed only when this is medically and biologically justified and if technological and staffing equipment exists, in accordance with a previously undertaken review by a high-level professional and scientific agency, and if the consent of the tested person, or his guardian or representative, is obtained.

100. According to article 77 of the Code, the person willing to have new methods or medical research used on him, should be made familiar with the characteristics, the expected results and the possible risk and dangers of the procedure. Voluntary, non-coerced consent is necessary. Upon the request of the ill person, or upon the assessment of the researcher, the research should be interrupted. If the new treatment represents a unique opportunity to save the life of the ill person, and if this person is not able to make a conscious decision, as an exception, the consent may be given by the legal representative of the ill person. It is not permitted to use new methods with the intention of obtaining new scientific data on mentally retarded persons, prisoners or persons in a subordinate position to the person performing the research (art. 78).

101. A live embryo may not be used as an object of an experiment in the uterus. Only interventions with a therapeutic nature, for accelerating growth, for treatment or for giving birth are permitted (art. 79, para. 2). It is prohibited to use the human embryo or foetus for commercial or industrial purposes. Taking a sample of tissue from a deceased embryo or foetus may not be conditioned upon remuneration in money (art. 80).

102. The conditions for taking, exchanging, transferring or transplanting parts of the human body for the purpose of treatment is regulated by a particular law. The prohibited transplantation of parts of the human body is a criminal offence according to article 210 of the Criminal Code.

103. The proposed changes to the Law on Health Care, which is now before the Parliament, contain detailed provisions on the performing of medical experiments upon humans.

Protection of victims of torture and other forms of inhuman and degrading treatment and punishment

104. Victims of torture and other forms of inhuman or degrading treatment and punishment may seek protection of their rights on the basis of the provision laid down in article 50 of the Constitution, according to which every citizen

may invoke the protection of the rights and freedoms determined by the Constitution before the courts and the Constitutional Court of the Republic of Macedonia, in a procedure that is based upon the principles of priority and urgency. In cases where torture and other forms of inhuman treatment contain elements of a criminal offence, the citizen may bring criminal charges to the Public Prosecutor and, for crimes for which prosecution by civil action is foreseen, by taking such action to the court. For criminal offences prosecuted ex officio, in the case when the Public Prosecutor refuses the charges the victim has the right to undertake prosecution as a subsidiary prosecutor. In the case when the victim has suffered damages, he has the right to submit to the court a petition for compensation, and if he is referred to a trial, such claim shall be considered in civil proceedings according to the general provisions for civil compensation.

105. The compensation covers the whole damage (material and non-material) which was suffered by the victim. In case of death, bodily injury or serious consequences for health, just satisfaction in the form of a periodic financial payment which covers the expenses for treatment, for damages because of inability to work, compensation for lost or reduced possibilities for further advancement, etc. Apart from that, the Law on Obligation Relations also foresees compensation for non-material damages. According to article 200 of the Law, if the court finds that the circumstances of the case, and especially the intensity of pain and fear and their duration, justify this, the court shall award fair financial compensation, regardless of the compensation for material damages or, if there is none, for physical and mental pain or suffering. Fair financial compensation can be awarded in case of reduced life activity, disfigurement, damage to reputation, honour, freedom or rights of the person, death of a close person, and fear suffered. In case of the death of some person or especially grave disability, the court may award the members of the immediate family (spouse, children and parents) fair compensation for their mental suffering.

106. In cases when torture and other forms of inhuman and degrading treatment or punishment is committed by an official person, compensation may be secured through the People's Ombudsman who, according to the Constitution, protects the freedoms and rights of citizens when they are violated by an act or action by the State administrative bodies or agencies and organizations that have public authority. If the People's Ombudsman decides that the constitutional and legal rights of citizens have been violated, he may propose initiation of disciplinary proceedings against the official person, or may request the Public Prosecutor to bring criminal charges against that person.

Article 8. Prohibition of slavery

107. In the Constitution of the Republic of Macedonia there is no explicit prohibitive provision in relation to the institution of slavery and servitude that is similar to slavery, which is due to the fact that slavery has never existed in these regions. International law explicitly prohibits slavery in any form, and this prohibition is an integral part of the customary international law which is legally binding on the Republic of Macedonia. According to article 8, paragraph 1, item 10, of the Constitution, respect for the generally accepted norms of international law is one of the fundamental values of the constitutional order of the Republic of Macedonia. Apart from

this, as a legal successor to the former SFRY, the Republic of Macedonia in 1993 acceded to the following United Nations conventions: Slavery Convention (ratified by the former SFRY on 1 July 1955), Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (ratified by the former SFRY on 14 July 1958), Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (ratified by former SFRY on 28 December 1950), and the International Convention for the Suppression of the Traffic in Women and Children (ratified by the Kingdom of Yugoslavia on 28 February 1929).

108. Article 11, paragraph 3, of the Constitution prohibits forced labour.

109. The Criminal Code, in the group of crimes against humanity and international law, foresees the criminalization of establishing a slave relationship and transportation of persons in slavery (art. 418), according to which: (a) a person who by violating the rules of international law places a person in slavery or in some similar relationship, or keeps him under such relationship, buys him, sells him, hands him over to another, or mediates in the buying, selling, or handing over of such a person, or instigates another to sell his freedom or the freedom of a person he is keeping or caring for, shall be punished with imprisonment of 1 to 10 years; (b) a person who transports persons under a slavery or similar relationship from one country to another shall be punished with imprisonment of six months to five years; (c) if the crime is perpetrated against a juvenile, the perpetrator should be punished with imprisonment for at least five years.

110. Article 191 of the Criminal Code criminalizes the facilitation of prostitution. A person who recruits, instigates, stimulates or entices another to prostitution, or a person who in any way participates in handing over another to someone for performing prostitution, shall be punished with imprisonment from six months to five years. A person who for profit enables another to use sexual services shall be punished with a fine, or with imprisonment of up to one year. A person who for profit, by using force or by serious threat to use force, compels or by deceit induces another to give sexual services, shall be punished with imprisonment from six months to five years. If the crimes are committed with a juvenile, the offender shall be punished with imprisonment from six months to five years. If the crimes are committed towards a child, the offender shall be punished with imprisonment from one to five years. A person who organizes these crimes shall be punished with imprisonment from 1 to 10 years.

111. In order to prevent the establishment of slavery and subordination in the labour domain, article 32 of the Constitution of the Republic of Macedonia guarantees to everyone the right to work and a free choice of employment. The field of labour is regulated by the Law on Labour Relations. According to article 3 of the Law, the rights and duties of the employee and the employer, specified in the work contract, are regulated in a manner and under conditions determined by law and collective agreement. The Law also foresees that the rights concerning employment determined by the Constitution, the Law and collective agreements cannot be denied or restricted by acts and actions of the employer.

112. The position of employees in the labour process is defined in the Law on Employment Relations, i.e. in the provisions of chapter III - The rights of employees and their position (arts. 30-72). The said provisions cover the following rights:

(a) The right of the employee to a 40-hour working week;

(b) The right to proportional reduction of working time of the employee who works on especially difficult, strenuous and harmful tasks, whereby this reduced working time is treated as full work time;

(c) The right of the employee for work done between 10 p.m. and 6 a.m. of the next day to be treated as night work. For night work, the basic salary of the employee is increased by at least 35 per cent per hour, and for work in shifts by at least 5 per cent;

(d) The right to a redistribution of the working time, whereby the full working time of the employee on average may not amount to more than the normal working time (40-hour working week during the year);

(e) The right to rest. The employee may not waive this right, which consists of paid daily rest (the time to rest during the working day is considered as part of the working day), paid weekly rest (at least 24 hours continuously), paid annual vacation (a minimum of 18 working days and a maximum of 26 working days);

(f) The right to leave from work with compensation of the salary;

(g) The right to protection at work, including security and health protection measures (the employer must provide all the necessary conditions for protection at work that are prescribed by law);

(h) The right to special protection of women, youth and disabled employees;

(i) The right to special protection for pregnant women and mothers;

(j) The right to salary and compensations of salary; and

(k) Other rights determined by law and by collective agreements.

113. The criminal legislation of the Republic of Macedonia does not contain provisions by which forced labour is prescribed as a punishment (the Criminal Code foresees only fines and imprisonment as punishments that can be pronounced against offenders responsible for a crime). The exceptions from item 3 (c) in article 8 of the Covenant, which determine the types of work not included in the term "forced or compulsory work", are contained also in the legislation of the Republic of Macedonia. The work of sentenced persons is regulated by the Law on the Execution of Sanctions. (See article 10 of this report.)

114. Detained persons are not subject to work duty. They can be engaged only on work that is necessary for maintaining the cleanliness at the premises where they are residing.

115. Military duty is regulated by the Law on Defence. According to article 3 of this Law, military duty is general and compulsory for all male citizens of the Republic from 17 to 55 years of age. As an exception, women may serve in the reserve forces. The military duty period is nine months. A person is exempt from serving the military duty: (a) who is assessed as incapable of military service; (b) if he has acquired citizenship of the Republic of Macedonia by naturalization or on the grounds of international agreements, if he has served his military duty in the country whose citizen he was, or if he has reached the age of 27; (c) if he has attained the status of an active military person; and (d) if he has completed the school for internal affairs and has passed at least two years on duty as policeman or guard in a penal and correctional institution. 5/ Soldiers, who on the basis of conscientious objections do not want to carry arms shall serve their military duty for a period of 14 months (article 7 of the Law on Defence).

116. In the defence of the Republic, besides military duty, and according to the Law on Defence, citizens have the obligation to participate in civil defence: to perform work duty, as well as a material duty. The duty of citizens to participate in civil defence consists of performing duties in the protection and the rescuing of populations and material goods from war destruction and consequences caused by it, and from other dangers in military actions and natural disasters, and from other disasters in a state of war. All men 17 to 60 years of age and women to 55 years of age must participate in civil defence during wartime. Exempt from this duty are pregnant women, mothers and single parents and guardians who have or who are caring for a child of up to 7 years, or for two or more children of up to 10 years.

117. The Law on Defence foresees in article 11 the performing of military duty which may be imposed only in a state of war. All citizens with capacity to work after reaching the age of 15 and until reaching the age of 65 for men, 60 for women, are subject to this duty. The conditions, manner and duration of the tasks for which the work duty is imposed are regulated by a decree that is passed by the Government of the Republic of Macedonia. The decree determines precisely the tasks for which this duty may be introduced. They are the following: producing and performing services in enterprises and public institutions and services that are of special importance for defence, in enterprises that perform services for the needs of the army, in enterprises that have concluded contracts with the Ministry of Defence; maintenance of roads, railroads and airports; construction and maintenance of facilities for crossing water and other type of obstacles; support in extinguishing fires and clearing rubble; construction of trenches and other shelters for the protection of the population; performing planting, harvesting and other agricultural work, as well as other similar work for the needs of defence.

118. A citizen performing this duty enjoys in principle the same rights and duties that derive from employment; still, inevitably the regime for this kind of work is much stricter. For example, the work time during a state of war is far more flexible and depends directly upon the military needs. The decree prescribes that the work duty may not last for longer than 12 hours per day,

or 5 days per month. The right of the employee to compensation is realized through the obligation of the employer to pay financial compensation to the level of an average monthly salary per employee in the economy.

119. Besides this, in a state of war, citizens who are capable of doing so are obligated to provide medical first aid, which covers activities and tasks for first aid to wounded and the ill, and their transfer to the closest health-care institution.

120. Citizens who are summoned by the responsible organ to perform their military duty, civil defence, work duty and material duty are obligated to respond to the summons or to the general call-up. The failure to meet this obligation, as well as the failure to provide first aid in a state of war, is a minor offence (a fine or a punishment of imprisonment of up to 60 days).

121. The Law on Protection against Fires prescribes the obligation of every citizen to participate in extinguishing fires and in removing the consequences of fires.

122. Besides liability for minor offences, criminal liability is foreseen for failure to fulfil civil duties. The Criminal Code foresees several criminal offences, such as: failure to participate in removing a general danger (art. 296), failure to help a person injured in a traffic accident (art. 301), failure to provide help to a person whose life is in danger (art. 136), not responding to a summons and avoiding military service (art. 341), avoiding military service by incapacitating or fraud (art. 342), not providing medical assistance (art. 208).

123. The Law on Work Relations determines in article 35 the cases when the working time may last longer than 40 hours per working week, but not longer than 10 additional hours per week. This concerns exceptional situations, such as: earthquakes, floods, fires, epidemics, epizootics, and other situations of force majeure or accident which happened or which are imminent; providing help to other employers who had an accident or who are directly threatened; when it is necessary to finish a started process of work the interruption of which, considering the nature of the technology and organization of work, would cause significant material damage or would endanger the lives and health of people; when it is necessary to start or to finish an urgent medical (human or veterinary) intervention, or other urgent health-care measures.

Article 9. The right to liberty and security of the person

124. The right to liberty and security of the person is guaranteed in the Constitution of the Republic of Macedonia in article 12, according to which:

> "The human right to freedom is irrevocable. No person's freedom can be restricted except by a court decision, or in cases and procedures determined by law.
>
> "Persons summoned, apprehended or detained shall immediately be informed of the reasons for the summons, apprehension or detention and on their rights. They shall not be forced to make a statement. A person has the right to an attorney in police and court procedures.

"Detained persons shall be brought before a court as soon as possible, within a maximum period of 24 hours from the moment of detention, and the legality of their detention shall there be decided upon without delay."

"Detention may last, by court decision, for a maximum period of 90 days from the day of detention.

"Detained persons may, under conditions determined by law, be released from custody to conduct their defence."

125. The right to compensation for unlawful deprivation of liberty is contained in article 13, paragraph 2, of the Constitution, according to which "A person unlawfully detained, apprehended or convicted has the right to legal redress and other rights determined by law."

126. The Constitution of the Republic of Macedonia does not list all the cases and conditions under which a person may be deprived of liberty, but it still gives a firm guarantee that the deprivation of liberty may not be arbitrary and outside the proceedings determined by law. Furthermore, the only organ that may decide upon the restriction of liberty of a citizen is the court, thus removing any possibility for such authorization by the police, the Public Prosecutor or some other administrative organ. Legal protection against unlawful deprivation of liberty is guaranteed in article 140 of the Criminal Code, where the criminal offence is foreseen of unlawful deprivation of liberty. A person who unlawfully arrests, keeps detained, or in some other way takes away or restricts the freedom of movement of another person, shall be punished with a fine, or with imprisonment of up to one year. The attempt is also punishable. If the unlawful deprivation of liberty is performed by an official, through abuse of the official position or authority, he shall be punished with imprisonment of six months to five years. If the unlawful deprivation of liberty lasted longer than 30 days, or if it was performed in a cruel manner, or if the health of the person unlawfully deprived of liberty was seriously damaged because of this, or if some other serious consequences result, the offender shall be punished with imprisonment of one to five years. If the person unlawfully deprived of liberty loses his life because of this, the offender shall be punished with imprisonment of at least three years.

Grounds for deprivation of liberty

127. Undoubtedly, the most acceptable restriction of the liberty of the person is the serving of a sentence for a criminal offence. According to article 33 of the Criminal Code, the punishment of imprisonment may be pronounced against an offender who has criminal liability for a crime. Imprisonment may not be shorter than 30 days, and not longer than 15 years. Besides this, a punishment of life imprisonment may be pronounced for grave crimes for which imprisonment of 15 years has been prescribed, and which have been perpetrated with premeditation. A punishment of life imprisonment may not be pronounced as the only punishment, and it may not be pronounced against an offender who at the time the crime was committed had not reached the age of 21. 6/

128. According to data from the State Statistical Office, in 1995 imprisonment was pronounced against 2,272 perpetrators of criminal offences, representing 29.5 per cent of all pronounced main punishments. In the majority of cases - 1,152, or 50.7 per cent - the punishment of imprisonment was pronounced for crimes relating to property. For crimes against life and body, imprisonment was pronounced in 254 cases (11.1 per cent), for crimes against the rights and freedom of the individual and citizen, imprisonment was pronounced in 8 cases (0.3 per cent), for crimes against honour and reputation, imprisonment was pronounced in 42 cases (1.8 per cent), etc. In the majority of cases - 655 - imprisonment was for a duration of 6 to 12 months. The maximum sentence of 20 years (according to the then valid Criminal Code) was pronounced in 5 cases (0.2 per cent).

129. According to article 86 of the Criminal Code, a sentence of imprisonment may be pronounced for a senior juvenile who is criminally liable, 7/ who has committed a criminal offence for which the law prescribes a punishment of more than five years imprisonment, and because of the grave consequences of the crime and the high degree of criminal liability it was not justified to pronounce a correctional measure. Juvenile imprisonment may not be shorter than 1 year or longer than 10 years, and it is pronounced in full years or half years. When deciding upon the punishment of juvenile imprisonment, the court shall especially consider the degree of mental development of the juvenile and the time required for his education, correction and professional development (article 88 of the Criminal Code).

130. In 1995, according to official data, imprisonment of the juvenile offender was pronounced in six cases (0.5 per cent of the total number of criminal sanctions pronounced against juveniles), four cases of crimes related to property and two cases of crimes against life and body. In five cases the imprisonment was for up to two years, and only in one case for five years.

131. According to the Law on Minor Offences, a punishment of imprisonment may be pronounced for a minor offence, with duration of at least 5 days and a maximum of 90 days. Imprisonment for minor offences may not be pronounced against a woman more than three months pregnant or against a mother with a child of less than one year of age and, if the child was still-born, before six months from the day of giving birth.

132. The Criminal Procedure Code foresees detention as a measure for ensuring the presence of the accused and for successfully carrying out the criminal proceedings. It determines the conditions under which a person for whom there are grounds to suspect that he has committed a crime can be detained. There is no compulsory detention. According to article 184 of the Code if there are grounds to suspect that a specific person has perpetrated a crime, detention may be pronounced against this person if:

(a) He is hiding, his identity cannot be determined, or other circumstances exist that indicate there is danger of his escape;

(b) There are grounds to fear that he would destroy the evidence of the criminal offence, or special circumstances indicate that he is hindering the investigation by influencing witnesses, accomplices or those who sheltered him; and

(c) Special circumstances justify the fear that he would commit the crime again, or he would complete the attempted crime, or that he would commit a crime which he is threatening.

133. Detention is determined by the investigating judge of the competent court who must submit his ruling in writing. The ruling, among other things, must specify the crime, the legal grounds for the detention, a note about the right to appeal, and a justification, where the grounds for detention need to be explained. If the accused has not chosen a defence counsel and a defence counsel is compulsory, a defence counsel ex officio shall be determined together at the time of the ruling.

134. In an urgent procedure (for crimes for which the main prescribed punishment is a fine or imprisonment of up to three years), detention may be pronounced against a suspected person if:

(a) He is hiding, his identity cannot be determined, or other circumstances exist that indicate there is danger of his escape; and

(b) The issue is a crime against public order or morals for which a punishment can be pronounced of imprisonment of up to three years, and when special circumstances justify the fear that he would commit the crime again, or that he would commit a crime which he is threatening.

135. In proceedings against juveniles, detention is pronounced only as an exception, on the same grounds as are foreseen in article 184, paragraph 1, of the Criminal Procedure Code.

136. According to data from the competent courts, which are collected at the Ministry of Justice, in 1995 the measure of detention in first-degree criminal proceedings was pronounced against 429 adult perpetrators of crimes, whereas in 9 cases of detention there was no indictment. With regard to the duration of detention, in the largest number of cases - 172 (45.4 per cent) - detention lasted from 15 to 30 days. In 38 cases (10.1 per cent) detention was up to 3 days, in 107 cases (28.5 per cent) detention lasted between 15 and 30 days, and in 58 cases (15.4 per cent) detention was between 1 and 3 months.

137. In proceedings against juveniles, detention was pronounced in 29 cases, whereas proceedings were terminated in 2 cases. In one case (3.4 per cent), detention was pronounced with a duration of up to 3 days; in 4 cases (13.8 per cent) detention was up to 15 days, in 12 cases (41.4 per cent) detention was up to 30 days and in 12 cases (41.4 per cent) detention was pronounced for a duration of longer than one month.

138. The Criminal Procedure Code regulates in a separate chapter the extradition procedure for accused or sentenced persons. Detention in these proceedings is allowed if a petition to extradite has been submitted which meets the prescribed conditions, and if the reasons in article 184 exist. The detention is determined by the investigating judge, who, after establishing the identity of the foreigner, shall inform him without delay why and on what grounds and on basis of what evidence his extradition has been requested, and he shall call upon him to state what he has to say in his defence. The investigating judge shall advise the foreigner that he may take on a defence

counsel, or he shall appoint one ex officio, if the matter concerns a crime for which defence is compulsory. In urgent cases, when there is danger that the foreigner whose extradition is requested will escape or hide, the Ministry of Internal Affairs may deprive the foreigner of liberty in order to escort him to the competent investigating judge, based on the request of the competent foreign organ, regardless of how the request has been filed. When he determines detention on these grounds, and after interrogating the foreigner, the investigating judge shall inform the Ministry of Internal Affairs through the Ministry of Justice about the detention. The investigating judge shall release the foreigner when the reasons for detention cease to exist, or if no request for extradition is submitted within the time limit the judge has set.

139. According to the Law on Minor Offences, the court may pronounce detention of an accused for five days if: (a) the accused cannot prove his identity or has no residence, or if the person's going abroad would prevent the proceedings from being held; (b) if the case concerns a more serious offence for which punishment with imprisonment is foreseen; and (c) he was caught in the act of committing the violation. The Criminal Procedure Code in article 188 prescribes that a person caught in the act of committing a crime for which prosecution is carried out ex officio may be deprived of liberty by anyone. The person deprived of liberty must be handed over immediately to the investigating judge or to the Ministry of Internal Affairs, and if this cannot be done, one of these organs must be notified immediately. According to paragraph 2 of the same article, authorized officials of the Ministry of Internal Affairs may deprive a person of liberty without a decision of the court if there are grounds to suspect that he has perpetrated a crime for which there is ex officio prosecution, if there is danger of delay, and if any of the reasons for detention under article 184, paragraph 1, exist, but they are obligated to bring this person to the competent investigative judge immediately.

140. Authorized officials of the Ministry of Internal Affairs, as an exception, may keep the person in their custody, if this is necessary in order to determine his identity, check the alibi, or if it is necessary for some other reasons to collect necessary information for carrying out a procedure against a specific person, when the reasons for detention in article 184 of the Criminal Procedure Code exist. The person may be kept in such custody for 24 hours maximum. After this period expires, the authorized officials of the Ministry of Internal Affairs are obligated to release the person or to take him to the competent investigating judge.

141. The Criminal Procedure Code foresees another possibility for keeping persons in custody (art. 143). This concerns persons who were found at the place of the crime, who could be sent to the investigating judge or held until he arrives, if these persons could provide data that are important for the criminal proceedings and if it is probable that later they could not be interrogated, or this would be connected with a significant delay or with other difficulties. Holding these persons at the place of the crime cannot last longer than six hours.

142. The Law on Internal Affairs (art. 29, para. 1) foresees the possibility for authorized officials of the Ministry of Internal Affairs to hold persons

for a maximum of 24 hours if the person disturbs or threatens public order and peace, if establishing public order and peace or removing the threat cannot be achieved in some other manner, and, in the case of persons extradited by a foreign security organ, to conduct him to a competent organ. The person that is being held has the right to appeal to the Ministry within 12 hours from the moment of being held, and the Minister must decide on the appeal within 12 hours from the time the appeal has been lodged.

143. The Criminal Procedure Code foresees the possibility that a witness who has been properly summoned can be brought by force if he did not come to the hearing and could not justify his absence. If the witness does come but, without any legal reason, does not want to testify, he may be punished with a fine, and if he again refuses to testify, he may be imprisoned. Imprisonment lasts until the witness agrees to testify or until his intervention becomes unnecessary, but to a maximum of one month.

144. Deprivation of liberty of juveniles for the purposes of correctional supervision is regulated by the provisions of the Criminal Code which determines the conditions under which educational measures may be imposed against juvenile perpetrators of crimes. The Criminal Code foresees three types of educational measure: disciplinary measures, measures of intensified supervision and institutional measures. Institutional measures are imposed against a juvenile when longer-lasting measures of education, correction or treatment and complete separation from his former environment are necessary. Those measures may not last longer than five years. Institutional measures include sending him to an educational institution or to a correctional institution.

145. The measure of sending a juvenile to an educational institution is pronounced against a juvenile for whom permanent supervision must be provided by professionals for the purpose of education, correction and complete separation from his former environment. The juvenile stays in an educational institution at least six months and at most three years. The court does not determine the duration of this measure when it is pronounced, rather later on. The measure of sending a juvenile to a correctional institution is pronounced against a juvenile when it is necessary to have longer and intensified measures for education and correction, with complete separation from his former environment. When deciding whether to pronounce this measure, the court shall especially consider the severity and nature of the crime and the circumstance, and whether educational measures or juvenile imprisonment have been pronounced against the juvenile in the past. The juvenile stays in the correctional institution at least one year and at most five years. For this measure, as for the previous one, the court does not determine the duration of this measure when it is pronounced, but later on.

146. During 1995, a total of 50 institutional measures were passed, in 18 cases sending to an educational institution and in 32 cases sending to a correctional institution. Institutional measures accounted for 4.2 per cent of cases, while educational measures were passed in 1,178 cases, which was 99.4 per cent of the total number of criminal sanctions against juveniles.

147. In addition to punishment and educational measures, the Criminal Code also foresees several security measures. These concerns criminal sanctions,

which have a curative nature since they are directed at eliminating situations or conditions which could influence the offender to commit criminal offences in the future. There are two security measures which by their nature entail a restriction of liberty: compulsory psychiatric treatment and custody in a health care institution, and compulsory treatment for alcoholics and drug addicts. According to article 63 of the Criminal Code, if an offender has committed a criminal offence in a state of mental incompetence or in a state of significantly reduced mental competence, the court shall pronounce the measure of compulsory psychiatric treatment and custody in a health care institution if it determines that because of this situation he may commit the crime again, and that in order to remove this danger, it is necessary to treat him and place him in the custody of such an institution.

148. The security measure of compulsory psychiatric treatment and custody in a health care institution is executed in a health care institution that is established for this purpose, or in a health care institution for mentally disordered persons. The court shall revoke the measure when it determines that the need for treatment has ceased. The time spent in a health care institution is calculated as part of a sentence of imprisonment. The court reviews the need for treatment and custody in health care institution every year.

149. According to article 65 of the Criminal Code, if a person has committed a crime as a consequence of addiction to alcohol, narcotics or other psychotropic substance, the court may sentence him to compulsory treatment when there is danger that he will continue to commit crimes because of this addiction. This measure is carried out in a specialized institution and the time spent in such an institution is considered as part of the punishment. The health care institution is obligated to inform the court of first instance at least every six months about the state of health of the person and about the results of the treatment.

150. In the legislation of the Republic of Macedonia, deprivation of liberty of mentally disordered persons is regulated by the Law on Non-Litigious Proceedings. Forced hospitalization is allowed when it is necessary to restrict the movement of the mentally disordered person or his contacts with the outside world. A decision by the court is required, and health care institutions must inform the court within 48 hours of any holding of a person without his consent. The court should also be informed when a person has been accepted with his consent, but later revokes it. The Law explicitly requires that the court must interrogate the person that is being held, as well as an examination by two doctors, one of whom must be a specialist in mental disorder. Based upon the collected data, the court shall decide within three days whether the person shall be held in custody in the health care institution or shall be released. When the court decides to hold the person, it shall also determine the duration, which cannot be longer than one year. If the health care institution concludes that the person being held should remain for treatment even after the expiration of the time determined in the court ruling, it is obligated to request from the court an extension of the detention 30 days before the period expires. The court shall decide after a new examination and interrogation of the person. The health care institution is obliged to inform the court from time to time about the state of health of the person being held. The person being held has the right to appeal a ruling

to hold him in a health care institution, as well as a ruling to extend the detention within three days from the day the ruling was received. The higher court is obliged to pass a ruling on the appel within three days.

Notification of the reasons for deprivation of liberty

151. According to article 3 of the Criminal Procedure Code, a person who is summoned, arrested or deprived of liberty must be informed immediately, in a language that he understands, about the reasons for being summoned, arrested or deprived of liberty, and about any kind of criminal accusation against him, as well as about his rights, and no statement may be requested from him. The suspected, or the accused, must first be instructed in a clear manner about his right to be silent; the right to defence counsel or his own choice during the interrogation, as well as about the right to have a member of his family or someone close to him informed about his arrest or deprivation of liberty.

152. The Law on Internal Affairs (art. 29) obliges the authorized officials of the Ministry of Internal Affairs to inform the person who has been arrested or deprived of liberty about the reasons for the arrest or deprivation of liberty, and about his rights as determined by the Constitution and laws. Besides this, the Criminal Procedure Code in article 185, paragraph 4, stipulates that a detention order must be handed to the person it concerns at the moment he is deprived of liberty, and at the latest 24 hours from the moment he has been deprived of liberty. The hour when deprivation of liberty took place and the hour when the order was handed over must be registered in the case file.

153. The court is obliged within 24 hours to inform the family of the detained person about the detention, except if the person opposes this. The responsible organ for social affairs is also informed about the detention, if it is necessary to undertake measures for taking care of children of other members of the family who are in the care of the detained person. The obligation to notify the family is also prescribed in the Law on Internal Affairs, which states that if conditions for this exist, the authorized official is obligated to inform within three hours the family of the detained person, and the enterprise or agency where he is employed, if he so requests, as well as to inform the person of the reasons for being held and about his right to defence counsel.

The right to be brought before a court and to have a trial within a reasonable time

154. According to article 12, paragraph 4, of the Constitution and article 3 of the Criminal Procedure Code, a person deprived of liberty must be brought before a court immediately, and at the latest 24 hours from the moment he has been deprived of liberty. The court shall decide without delay about the lawfulness of the deprivation of liberty. In the Covenant, besides the word "judge", there is the term "other officer authorized by law to exercise judicial power". The Constitution of the Republic of Macedonia in article 98 prescribes that judicial power is exercised by the courts, which are independent and autonomous. The Criminal Procedure Code in article 185 determines that the only one who can pronounce a measure of detention is the

investigating judge of the competent court. In this manner, the possibility has been completely excluded that any other organ but the court may decide on detention.

155. The investigating judge is obligated to inform immediately the person deprived of liberty who has been brought before him that he may have a defence counsel who may be present during his interrogation and, if necessary, to help him find a defence counsel. If within 24 hours after this information the person deprived of liberty has not been provided with defence counsel, the investigating judge is obligated to interrogate the person immediately. If the person deprived of liberty states that he does not want to have defence counsel, the investigating judge is obligated to interrogate him without delay. In case of compulsory defence, if the person deprived of liberty does not engage a defence counsel within 24 hours from the hour when he was instructed about this right, or if he states that he does not want to have defence counsel, then defence counsel shall be appointed ex officio.

156. Immediately after the interrogation, the investigating judge shall decide whether the person deprived of liberty shall be released. If the investigating judge is of the opinion that the person deprived of liberty should be retained in custody, he shall inform the Public Prosecutor about this immediately, if the Public Prosecutor has not already submitted a request to conduct an investigation. If the Public Prosecutor does not submit a request for conducting an investigation within 48 hours from the hour when he was informed about the detention, then the investigating judge shall release the person who has been deprived of liberty.

157. In accordance with article 12, paragraph 6, of the Constitution a detained person may under conditions determined by law be released to defend himself. The Criminal Procedure Code in article 179 foresees bail as a measure to secure the presence of the accused at the criminal proceedings. According to this provision, an accused who should be or already is detained because of fear of his escape, may remain at liberty, that is he may be released from custody if he himself or someone gives a guarantee for him that until the end of the criminal proceedings he shall not escape, while the accused himself shall promise that he will not hide and that without permission he shall not leave his residence. The amount of the bail requested is always determined according to the seriousness of the criminal offence, the personal and family circumstances of the accused, and the property status of the person who provides the bail.

Duration of detention

158. According to article 12, paragraph 5, of the Constitution, detention by decision of a court may last 90 days at most. In the Criminal Procedure Code it is determined that the duration of the detention must be of the shortest possible time. All organs that participate in the criminal proceedings and the organs that provide legal aid are obligated to act with utmost urgency if the accused is in detention. During the whole proceedings, a detention decision shall be revoked immediately when the conditions upon which it had been adopted cease to exist.

159. The accused may remain in detention, based upon a ruling of the investigating judge, for 30 days at most, from the day of deprivation of liberty. After this period, the accused may remain in detention only if an order for extension of the detention has been issued. Detention by decision of the Court Chamber may be extended for 60 days at most. An appeal is allowed against the ruling of the Court Chamber for extension of detention, which does not stop the execution of the ruling.

160. The reduction of detention from six months to three months (with the new Constitution of the Republic of Macedonia) has caused numerous problems in practice, due primarily to the impossibility of completing the court proceedings in such a short period, which resulted in a situation in which the perpetrators of grave criminal offences had to be released, whereupon most of them became unavailable to justice. The experts in this field point out that even under ideal conditions and with minimal use of the present deadlines for the separate stages of the proceedings, two to three months are needed to complete the process. Due precisely to these reasons, as well as to provide for efficient exercise of the judicial authority in the protection of the rights and freedoms of citizens, amendments to the Constitution should be proposed, in the part concerning the duration of detention.

Examination of the unlawfulness of detention

161. A detained person has the right to appeal against a detention order to the Court Chamber within 24 hours from the time when the order was delivered. If the detained person is interrogated for the first time after the expiration of this period, he may lodge an appeal during the interrogation. The appeal, together with a transcript of the interrogation, if the detained person has been interrogated, and the detention order, are delivered to the Court Chamber immediately. The appeal does not stop the execution of the order. The Court Chamber that decides on the appeal is obliged to make a decision within 48 hours. Furthermore, after the expiration of the 30-day period from the time when the last detention order became legally valid, and despite the fact that the concerned parties have not so requested, the Court Chamber is obliged to examine whether the reason for detention still exists, and consequently to adopt a ruling to extend or, alternatively, to suspend the detention.

The right to compensation for unlawful deprivation of liberty or for unlawful detention

162. Article 13, paragraph 2, of the Constitution determines that a person unlawfully deprived of liberty, detained or unlawfully convicted has the right to compensation for damages and other rights determined by law. The Criminal Procedure Code regulates in detail the conditions and the proceedings for compensation for damages to persons who have been deprived of liberty without legal grounds. According to article 530 of the Code, a person enjoys the right to compensation of damages when:

(a) He has been placed in detention and no criminal proceedings have been initiated, or the proceedings have been stopped with a ruling that has come into effect, or he has been acquitted of the accusations with a verdict that has come into effect, or the accusations have been rejected;

(b) Because of an error or unlawful action by an official organ, he has been deprived of liberty or continued to be detained;

(c) He has spent more time in detention than the duration of the imprisonment to which he has been sentenced.

163. A person who has been deprived of liberty on the basis of article 188 without legal grounds has the right to compensation for damages if no sentence of detention has been pronounced against him or if the time spent in detention has not been included in the punishment pronounced. Compensation for damages is not due to a person who was deprived of liberty owing to illegal actions on his part.

164. The right to compensation for damages is realized by bringing charges before the competent court. Before this, however, the injured person is obliged to present his claim to the Ministry of Justice in order to reach an agreement on the existence of the damages and the type and level of compensation. If the claim is not accepted or if the Ministry of Justice does not take a decision on it within three months from the day the claim was submitted, the injured person may bring charges for compensation for damages to the competent court. If agreement has been reached only in regard to a part of the claim, the person may bring charges in regard to the rest of the claim. The right to compensation concerns the whole damages, both material and non-material, which the unjustly detained person has sustained.

165. The compensation may be financial or non-material, i.e. so-called moral indemnity and rehabilitation of the unjustly detained person. If the case has been covered in the media, thus damaging the reputation of that person, the court shall publish, upon his request, an appropriate announcement; if not, a statement shall be delivered to his employer if requested. For a person whose social insurance was terminated because of deprivation of liberty without grounds, these shall be restored without prejudice.

Article 10. Humane treatment of persons deprived of liberty

166. The guarantees contained in article 10 of the Covenant have been incorporated in the legal system of the Republic of Macedonia in the Law on the Execution of Sanctions (in regard to treatment of persons deprived of liberty after being sentenced to imprisonment, as well as to juveniles against whom an institutional educational measure has been pronounced), and in the Criminal Procedure Code which contains provisions on treatment of persons in detention. The legislation contains provisions from the most important documents of the United Nations in this field, namely: the Standard Minimum Rules for the Treatment of Prisoners; the Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment; the Code of Conduct for Law Enforcement Officials; the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment; and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice. The European prison rules have been incorporated completely in the Law on the Execution of Sanctions.

167. The Law on the Execution of Sanctions has as one of its basic principles the principle of humanity, which is expressed through two elements. The first concerns the legally determined obligation of prison staff to respect the personality and dignity of the convicted person, in his treatment and in the application of methods of re-education, including also the punishment of convicted persons for violations of order and discipline. Means, methods and measures may not be applied which humiliate and degrade the personality of the convicted person, nor may procedures that attack his physical and mental integrity be used. The second element is expressed through the creation of conditions for life and work in the institution that conform to the average standards outside the institution.

168. According to article 6 of the Law, persons against whom sanctions are being implemented are treated humanely, with respect for their personality and dignity, preserving their physical and mental health, taking care to achieve the goals of the specific sanctions. Persons against whom sanctions are being applied are treated in a manner which, to the extent possible, corresponds to their personality. Very important is the provision of article 3 of the Law according to which persons against whom criminal sanctions are being implemented are deprived of or have restricted rights only within the limits that are necessary for achieving the goal of the sanctions, in accordance with the Law.

169. The Law foresees an unbiased implementation of the rules on execution of sanctions and prohibits discrimination on the grounds of race, colour of skin, sex, language, religion, political or other beliefs, national or social origin, family ties, property and social status, or some other status of the person against whom the sanctions are applied. The Law also prescribes the obligation to respect religious feelings, personal convictions and moral norms of the person against whom sanctions are applied (art. 4). The foregoing provisions of the Law are contained in the first part of the Law and they are common provisions which concern all persons against whom sanctions are applied for punishable acts, regardless of the type of sanction: punishment, security measures or educational measures. Besides this, provisions on humane treatment of convicted persons are contained in the parts of the Law that regulate the execution of specific sanctions. Thus, according to article 12 of the Law, during execution of the punishment of imprisonment, the psycho-physical integrity of the convicted person must be protected and his personality and dignity must be respected. Any form of torture or inhuman or degrading treatment and punishment is prohibited. The right to personal security of the convicted person and respect of his personality must be ensured.

170. The principle of humanity in the execution of sanctions finds its expression in the legal guarantee of specific rights of convicted persons, such as a continuous eight-hour rest during a day and a one-day rest during the week, the right to a daily two-hour stay outside of the closed premises, the right to work and the right to compensation for work, the right to material security during a temporary incapacity to work because of illness, the right to vacation, the right to protection at work, the right to disability insurance against accidents at work or professional illnesses, the right to pension insurance, the right to health insurance, the right to education, the right to carry out contacts with the outside world

(correspondence, telephoning, receiving visits, receiving packages). It must be mentioned also that for most of the guaranteed rights, especially those that arise from labour, the Law on the Execution of Sanctions refers in regard to their realization to the general provisions that are valid for all citizens in liberty. The conditions under which the remaining rights are implemented are prescribed by the Law itself.

171. Besides the rights that are recognized for any convicted person of which he cannot be deprived, the Law on the Execution of Sanctions also foresees so-called benefits which the convicted person may attain as a reward for his good behaviour and efforts in the work, and which are an important method of treatment because through them the convicted person is stimulated to good behaviour, developing his sense of responsibility, interest and cooperation in the treatment. The Law foresees especially the following benefits: prolonged visits or visits without supervision at the premises of the institution; visits at special premises of the institution; visits outside of the premises of the institution; free exit from the institution of up to seven hours; absence of up to seven days during the year and full or partial use of the vacation outside of the institution. The conditions and manner of awarding these benefits, as well as of other kinds of benefits depending on the type of institution, are determined by the house rules of the institution. (Regarding the disciplinary punishment of convicted persons, separation and use of means of coercion and firearms, see articles 6 and 7 of this report.)

172. As an element of the implementation of the principle of humanity in the execution of sanctions, the Law on the Execution of Criminal Sanctions determines the physical and material conditions for the life of convicted persons in penal and corrective institutions. The Law prescribes that the premises for accommodation of convicted persons should meet the basic sanitary conditions and they should conform to the climatic conditions of the environment, be properly equipped, enable the necessary ventilation, and have enough sunlight. They may not be humid. On the average, an area of at least 9 m^2 must be provided for each convicted person. The premises in which convicted persons live and work must have the necessary sanitary and hygienic facilities and provide other conditions for maintaining personal hygiene. There must be enough light for work and reading so that the sight of the convicted person will not be damaged, and they have to be heated and aired. All the premises of the institution are to be maintained properly and cleaned.

173. At night, in conformity with the possibilities of the institution, convicted persons are accommodated in separate rooms, except in cases when it is considered that joint accommodation of convicted persons has some advantages. When convicted persons are accommodated in common premises, a careful choice must be made of the persons for whom socializing with other convicted persons in the institution is suitable. A maximum of five convicted persons may be placed in one room for spending the night. Every convicted person must have a separate bed.

174. The convicted persons are provided with clothes, but they may be allowed to wear their own clothing. Convicted persons who work are provided with working clothes. The clothes of convicted persons must suit the climatic conditions of the season and they may in no way have a humiliating or degrading influence. When the convicted person receives permission to go

outside the institution, he must be allowed to wear clothes that do not attract attention. The clothes, shoes and bed sheets must be maintained in good condition, and they must be changed as often as necessary for them to be alway clean.

175. Convicted persons are obliged to maintain their personal hygiene, which requires that they be provided with water and the necessary hygiene accessories. For health reasons, as well as to preserve a good appearance and self-respect, convicted persons should be enabled to take care of their hair, to have their hair cut and to shave.

176. The food of the convicted person must provide at least 12,500 Joules per day. The food is provided in three meals per day, at the usual times and properly served. The food must correspond to scientific knowledge about nutrition and it must be varied and tastefully prepared. The food is the same for all convicted persons, and all convicted persons have a choice of food that is prepared at the institution. Convicted persons that do heavier work receive four meals per day. Ill convicted persons, pregnant women and women before and after delivery receive food according to type and quantity that is determined by a doctor. The director, doctor, or some other professional person in the institution checks the quality of the food before the meals are served. Convicted persons are provided with healthy drinking water at all times (articles 99-107 of the Law on the Execution of Sanctions).

177. The general provisions of the Law on the Execution of Sanctions that concern the humane treatment of persons deprived of liberty are applied also to juvenile perpetrators of criminal offences against whom educational measures have been pronounced, since these measures are also criminal sanctions. The Law regulates in a separate chapter the execution of institutional educational measures, sending to an educational institution and sending to a house of correction.

178. The educational measure of sending to an educational institution is executed in an educational institution intended for the education and social care of children and youth. The juvenile in an educational institution is placed under the same conditions and has the same rights and duties as other juveniles placed in the institution, whereby special attention will be devoted to him in regard to education and supervision. Only the head of the institution and the educator to whom the juvenile is entrusted are informed about the fact that an educational measure of an institutional type has been pronounced and is being executed against the juvenile.

179. The educational measure of sending to a house of correction is executed in institutions that are established for this purpose. Juveniles are placed in separate facilities according to gender. In a house of education and correction, a juvenile is provided with conditions for primary and secondary education, for attaining and developing positive habits, and for professional training and qualification for specific professions. Work assigned to the juveniles is determined according to their physical and mental capabilities and the possibilities of the institutions. The wishes of the juvenile to perform a specific kind of work must be taken into consideration. Juveniles who attain qualifications in a house of education or correction receive a diploma, from which it may not be seen that the qualification was attained in

a house of education or correction. Juveniles may, without restriction, receive visits from members of their immediate family and have correspondence with them and, with the approval of the director of the institution, they may be visited by other persons and have correspondence with them. Juveniles have the right to receive packages with clothes, objects for personal use, books and printed media whose contents are not educationally harmful. They have the right of leave for one month per year, for visiting their parents, as well as leave during holidays.

180. The separation of detained and convicted persons is guaranteed by article 14, paragraph 5, of the Law on the Execution of Sanctions. A similar provision is contained in the Criminal Procedure Code where the treatment of convicted persons is regulated. According to article 193 of the Code, persons who committed a crime, as well as persons who are serving a prison sentence, may not be placed in the same room with persons who are being detained. If this is possible, recidivists shall not be put in the same room with other persons deprived of liberty upon whom they could have a harmful influence.

181. The whole regime of detention is based on the fact that the guilt or innocence of the detained person has not been established, and therefore he is treated in a manner that fits the situation, i.e. like a suspect, especially since detention is a preventive measure and not a punishment.

182. Only those restrictions may be used against a detainee which are necessary to prevent escape or could be damaging for proceedings against him. Therefore, all rights that are recognized as pertaining to the detainee (except the right to an eight-hour rest, as well as the right to a two-hour daily stay in the open during the day), are not given absolutely, but under certain conditions and with specific restrictions. Even though convicted persons have the right to eat at their own expense, to wear their own clothes and to use their own bedlinen, and to buy books, papers and other things that correspond to their usual needs, the enjoyment of these rights is conditioned upon the fact that they do not have a negative effect upon the conduct of the proceedings against them.

183. The difference in the treatment of detainees in comparison to persons serving a prison sentence can be seen also in the fact that for detainees, work is not compulsory. The work obligation of detainees consists only in maintaining the cleanliness of the premises in which they stay. However, if the detainee so requests, the investigating judge, in agreement with the prison management, may allow him to perform, in the perimeter of the prison, work that corresponds to his physical and mental characteristics and that is not harmful to the conduct of the proceedings against him. (With regard to the right of detainees to maintain contacts with the outside world, see article 7 of this report.)

184. Detention of juveniles is regulated by the Criminal Procedure Code. According to article 459 of the Code, detention of juveniles is pronounced only as an exception, and then for the same reasons for which detention may be pronounced for an adult, and with the same duration. According to the Code, a juvenile serves the detention, as a rule, separately from adults. The judge for juveniles may determine that the juvenile is placed in detention together

with adults if they will not have a harmful influence upon him. The judge for juveniles has the same competence in regard to juveniles as the investigating judge has in regard to adult detainees.

185. The Criminal Procedure Code in article 458 gives the judge for juveniles the possibility, during the preparatory proceedings, to order the juvenile to be placed in a shelter, in an educational or similar institution, to be placed under the supervision of a guardian organ, or to be handed over to some other family, if this is necessary in order to separate the juvenile from the environment in which he lived or for providing assistance, protection or accommodation. The measures listed in this article are not invoked because of the nature and seriousness of the criminal offence, or because of the needs of the investigation. Their purpose is to separate the juvenile during the proceedings from the environment that is harmful for him, and to provide temporary protection and accommodation for him. Therefore, although these measures imply a restriction of liberty, they often may make the measure of detention unnecessary because of their nature.

186. The urgency of proceedings against juveniles is provided for in article 447 of the Criminal Procedure Code, according to which the organs participating in the proceedings against the juvenile, as well as other organs and institutions from which information, reports and opinions are requested, are obliged to act as quickly as possible in order for the proceedings to be finished as soon as possible. (More details about the urgency of the proceedings against juveniles are contained in article 14 of this report.)

187. The principles of resocialization and social rehabilitation, contained in paragraph 3 of this article of the Covenant, are accepted as the most important principles for the execution of sanctions in the Republic of Macedonia. They also result from the objectives of the punishment, which are contained in the Criminal Code. According to article 32 of the Criminal Code, in addition to enforcement of justice, an objective of punishment is to prevent the offender from committing crimes and to re-educate him, and to have an educational influence upon others not to commit crimes. In short, the principle of resocialization consists in the need to re-educate the convicted person and to impose a model of social behaviour which will prevent him in the future from meeting his needs and resolving his problems by means of criminal activity.

188. According to article 11 of the Law on the Execution of Sanctions, the goal of prison is to train the convicted person to become involved in society with the best possible chances for an independent life in conformity with the law. In order to achieve this goal, a feeling of responsibility is developed among the convicted persons, and they are stimulated to accept the treatment and to participate actively in it during the serving of their punishment, which is motivated and directed to re-education and development of positive character traits and capabilities that speed up the successful return to society.

189. The prison system is organized in such a manner as to facilitate various kinds of treatment, prevent mutually harmful influence of the convicted persons and maintain discipline. In the prison, the convicted persons are classified according to the kind of treatment required, age, personal

characteristics and other circumstances of importance for the evaluation of their personality. In the scheduling, classification and assignment of convicted persons, the type and nature of the crime committed and the degree of criminal responsibility are kept in mind.

190. In the re-education of convicted persons, the greatest importance is given to work. In defining work as a method of treatment, the Law on the Execution of Sanctions starts from the basic principles and conditions established in the Standard Minimum Rules on the Treatment of Prisoners. The Law starts from the fact that work is a right and duty of the convicted person; however, this may not be an element of coercion and additional punishment. The work in education and correction institutions is to be organized and implemented as part of the national economy; it should be useful and appropriate to the way it is performed on the outside; the work of the convicted person is not motivated by economic interest; and it is compensated. With the work, the convicted persons attain and develop good work habits, maintain their work capabilities and attain specialized knowledge.

191. According to the Law, the work of convicted persons should be appropriate to their mental and physical capabilities, and in determining the work engagement, having in mind the possibilities of the institution, consideration shall be given also to the wishes of the convicted person for performing specific work.

192. The work of convicted persons is organized and performed as a rule in economic units of the institution. However, convicted persons may also work outside the institution, in enterprises and other institutions, if conditions permit.

193. The full working time of convicted persons is 40 hours per week, and for convicted persons who attend classes in primary or secondary education, work time is reduced. Convicted persons have the right to compensation for their work. The level of the compensation is determined depending upon the type, quantity and quality of the product and the work of the convicted person, his qualification for performing this kind of work, involvement in the work and contribution to reducing the cost of production.

194. For the implementation of the goals of resocialization, besides work, special importance in the treatment of the convicted person is given to education and professional training. For this purpose, the Law on the Execution of Sanctions foresees that it is compulsory to organize primary education in the institutions as a part of the general education system. Convicted persons who complete the respective kind and level of education receive a diploma from which it may not be seen that the education was attained in an institution. Part-time education may be approved for the convicted person, at his own expense, in all kinds of educational institutions outside the prison, if this does not disturb the house rules and the work of the institution.

195. Institutions may also organize special forms of professional training for convicted persons in the form of courses, seminars and other types of professional training with practical work, in accordance with the general regulations on professional training.

196. The system of general and professional education that has been developed in educational and correction institutions is a significant characteristic of the penitentiary system of the Republic of Macedonia, because through this system of education pass a large number of convicted persons who attain appropriate qualifications. There are many cases of convicts attaining secondary and higher education qualifications allowing them to sit for exams outside the institution. The results of research show that around 15-20 per cent of the total number of convicted persons complete a certain level of education during their sentence.

197. For the purpose of implementing the goals of re-education, a certain importance is also given to the organization of free activities, sport and recreation of the convicted persons, counselling and contacts with the outside world. The Law prescribes that the programme for sport activities, recreation, and satisfying the cultural, artistic and other needs of convicted persons is a part of the treatment and training of the convicted person, and for this purpose the necessary facilities and equipment are provided in the institution. Counselling (art. 138 of the Law) is implemented with special attention and it is directed at resolving personal and common problems of convicted persons with individual and group talks, and with the application of appropriate methods and procedures of treatment.

198. In order to prevent the negative consequences that accompany isolation and deprivation of liberty, the Law on the Execution of Sanctions recognizes the right of convicted persons to maintain contacts with the outside world. This gains in importance if one takes into account that re-education implies a positive influence of outside links and communications upon the convicted person, thus creating conditions for an easier acceptance and involvement of the convicted person to life after serving his sentence. Contacts with the outside world are implemented by means of correspondence, telephone conversations, visits and packages. Correspondence and telephone conversations in closed institutions are made under the supervision of the management.

199. Convicted persons have the right to receive visits of members of their immediate family, and upon approval from the director of the institution, by other persons. A criterion for determining the number of visits is the type of educational and correction institution where the convicted person is serving a sentence. Convicted persons in a closed penitentiary or in a closed department of an institution of the general type have the right to one visit per month, and those in semi-open or open institutions have the right to two visits per month. A foreign citizen, a person without citizenship or a refugee may be visited by the consular representatives of his country or of the country that protects his interests, in conformity with the rules of international law and under conditions of reciprocity (art. 144) of the Law on the Execution of Sanctions). All visits to penitentiary institutions are regulated by the house rules of the institution. Visits last half an hour and, as a rule, are supervised. The manner in which the visit will be conducted depends upon how the re-education process of the convicted person is progressing. For those persons who show positive results and conduct, a visit is allowed without supervision, especially with the spouse.

200. The final act in the completion of the resocialization of the convicted person is the post-penal assistance, whose goal is to facilitate successful involvement of the convicted person after serving his sentence. Because of this importance, the Law contains special provisions on post-penal assistance. Article 205 prescribes the obligation of the institution to notify, three months before the convicted person is released, the centre for social work of the date of the convicted person's release and the kind of assistance which is necessary for his successful reintegration. The institution, the centre for social work and other responsible institutions should provide assistance to the released convict, especially in terms of temporary accommodation, food, health care, the selection of the environment where he will live, arranging family matters, completing a professional training, employment, and providing money for basic needs. If the convicted person does not have his own clothes or shoes or means to acquire them, then the institution gives him such clothes free.

201. The situation of juvenile perpetrators of crimes against whom a punishment of juvenile imprisonment has been pronounced is regulated in a special chapter of the Law on the Execution of Sanctions, because juveniles represent a special category of perpetrators of crimes, with specific bio-psychological and social characteristics which require special methods and means of treatment. First of all, juveniles are imprisoned in special institutions in order to protect them from negative influences. The institutions should provide special methods of treatment and work with juvenile convicted persons, implemented by specialized staff. Male juveniles must be separated from female juveniles. They may jointly attend the educational, social and entertainment programmes or programmes for professional training.

202. Institutions for juveniles should be appropriate from the point of view of architecture; their functioning, organization and contents should be adapted to the personality of the juvenile. The law prescribes that institutions for juveniles should have the minimum of security and physical obstacles to preventing the escape of juveniles, but set up in such a way as not to cause physical harm should escape be attempted. The number of juveniles in an institution for juveniles should permit individual treatment. The institution must have an open department to which the juvenile can be transferred when it is determined that he will not attempt to escape and that he will adhere to the rules in the department based on self-discipline.

203. The procedure for accepting a juvenile in an institution for juveniles should be conducted in a manner which would reduce to minimum the psychological effects of the deprivation of liberty. The treatment that is applied to the juvenile according to a professionally prepared programme determined by the Minister of Justice and in agreement with the Minister of Education and Minister of Labour and Social Policy should encourage and assist the juvenile to develop positive characteristics and character development, and to enable him to improve his qualifications and skills for later life.

204. A central place in the treatment of juveniles should be reserved for education. For this purpose, the Law prescribes that in an institution for juveniles basic educational instruction may be organized, as well as other kinds of professional training, depending upon the conditions and

possibilities of the institution. The choice of work and type of instruction and professional training is made according to the possibilities of the institution, having in mind the physical capabilities, personal qualities and inclinations of the juvenile. If conditions in the institution do not allow instruction to be organized the juveniles may attend classes in a school at the administrative seat of the institution.

205. The juvenile should be provided with facilities to engage in physical culture and sport and in other leisure activities in the fresh air; if the climatic conditions do not permit this, it should be done in a separate room for physical education and recreation. The juvenile should spend at least two hours per day in recreation, and at least two hours per day in training and performing craft activities (art. 220).

206. Juveniles who are imprisoned enjoy the same rights as other persons sentenced to the punishment of deprivation of liberty. Still, for the purpose of a successful resocialization, the Law offers the possibility for a wider application of some rights. The director of the institution for juveniles may permit the juvenile leave of absence to visit his parents and family two times during a year, for 14 days at a time, when there is no teaching. Juveniles should receive benefits that will stimulate them to become involved in the activities of the institution to develop positive character traits and self-respect.

207. As was mentioned before, a disciplinary measure of solitary confinement for a maximum of 10 days may be pronounced against a juvenile. This disciplinary punishment shall cease immediately when it is determined that there are no longer reasons for its imposition. The restricted application and duration of this measure is in acknowledgement of the fact that longer duration of this measure may have a negative effect upon the physical and mental life of the juvenile and cause long-lasting negative consequences. For the same reasons, the Law foresees that the measure of separation may not be pronounced against a juvenile.

208. The penitentiary system of the Republic of Macedonia consists of eight penitentiaries and two educational correctional institutions. The penitentiary and educational institutions are of the open, semi-open and closed kinds.

209. Institutions of the closed type are for sentences of longer than two years and life imprisonment, as well as for recidivists, regardless of the length of the sentence. In the Republic of Macedonia there is one closed-type penitentiary, with a total capacity of 1,260 persons.

210. Institutions of the semi-open type are for sentences of up to two years. There are six penal and correctional institutions of the semi-open type, with a total capacity of 563 persons.

211. Institutions of the open type are for persons convicted of crimes committed through negligence and for other crimes for which the sentence of imprisonment is up to five years, if there are grounds to believe that the treatment in these institutions corresponds to the nature of the crime and the personality of the offender and that in this type of institution, with a

feeling of personal responsibility, convicts will perform their duties and will not abuse their privileges. In the Republic of Macedonia there is one penal and correctional institution of an open type, with a capacity of 64 persons.

212. In institutions of the closed type special departments are established for convicted persons who are foreigners and for persons without citizenship, and in the institutions of the semi-open and open type, special departments are established for serving the measure of administrative detention.

213. The punishment of juvenile imprisonment is served in a special part of the "Idrizovo" penitentiary in Skopje, where juveniles are sent from all over the territory of the Republic of Macedonia. The educational measure of sending to a house of education and correction is served in two penal and correctional institutions, one in Tetovo for men, with a capacity of 80 beds, and another in Skopje for women, with a capacity of 20 persons.

214. The total capacity of the penal and correctional institutions in the Republic of Macedonia is about 2,000 persons, with an average capacity of about 1,000 persons, from which it can be concluded that the penal and correctional institutions in the Republic of Macedonia are not overcrowded.

215. The average age of the facilities of the penal and correctional institutions is between 30 and 40 years, and most of them have been reconstructed so that they meet the standards determined by the Standard Minimum Rules for the Treatment of Prisoners. Towards the end of 1996, the Parliament of the Republic of Macedonia adopted the Programme on Financing Construction, Upgrading, Adaptation and Larger Reconstruction of Penal and Correctional Institutions in the period from 1997 to 2001. Within the framework of this programme the reconstruction is foreseen of the facilities of the "Idrizovo" penitentiary (the largest such institution in the Republic of Macedonia, encompassing one-half the total prison capacity), upgrading, repairing and reconstructing the existing institutions, as well as construction of a centre-hospital for providing premises for medical treatment and accommodation for 200 convicted persons.

216. The Law on the Execution of Sanctions foresees three kinds of supervision of the work of the penal and correctional institutions. Expert supervision, performed by the Directorate for the Execution of Sanctions, consists in ensuring that the punishment of imprisonment is executed in conformity with the basic principles of the Law, by applying modern penological principles for the advancement and development of the system for the execution of sanctions, as well as in surveying, reviewing and analysing situations and resolving the problems and weaknesses in the operation of the institutions.

217. Court supervision consists of supervision in relation to the treatment of convicted persons and in the implementation of their rights and obligations. This is performed by the judge of the first-instance court having jurisdiction for the administrative seat of the institution. The Law prescribes that the director of the institution must provide for inspection by both the inspector for the execution of sanctions and by the judge of the necessary documentation, must not hinder the supervision and permit interviews

with the convicted persons. In cases where the inspector and the judge find irregularities, they pass a ruling for them to be removed within a specific time period.

218. Beside the supervision by the Directorate and the court, the Law also prescribes the establishment of a State commission for supervising penal and correctional institutions, consisting of five members from the ranks of judges; penological, social and educational workers; representatives of the Ministry of Justice, the Ministry of Health, the Ministry of Labour and Social Policy and the Ministry of Economy; and of scientific and professional workers from other institutions. This commission has the task, through periodic visits, to review the situation in relation to the implementation of the Law and other regulations and rules for the execution of sanctions, the treatment of convicted persons and the conditions under which they live and work, and to conduct surveys on the situation and rights of convicted persons. Members of the Commission may talk with convicted persons without the presence of officials of the institution. The commission prepares records, which also contain propoals and measures, and it sets a deadline for the removal of the irregularities. The reports are sent to the Government, the Directorate for the Execution of Sanctions and to the competent court. The institutions and the Directorate are obliged to act upon the proposals of the commission and to remove the irregularities within the determined deadline.

219. The conditions of persons who are in detention are supervised by the president of the competent first-instance court, who is obliged to visit detainees at least once a week and, if necessary, to inform himself, even without the presence of the supervisor and the guards, on how the convicted persons eat, how they are supplied with other necessities and how they are treated. The president is obliged to take the necessary measures to remove any irregularities that have been found. During these visits, the Public Prosecutor may also be present. The president of the court and the investigative judge may at any time visit all detainees, talk to them and receive complaints from them.

220. According to the data of the Ministry of Justice, on 30 June 1997 there was a total of 1,004 persons in the penal and correctional institutions of the Republic of Macedonia, of whom 851 were serving a sentence of imprisonment and 153 were in detention. The largest number - 392 - were serving a prison sentence for crimes against property, 162 persons for crimes against life and body, and one person each for crimes against the rights and freedoms of the individual and citizen, crimes against the dignity of a person and morality, and crimes against honour and reputation.

221. On the same date there was a total of 77 foreign persons in the penal and correctional institutions of the Republic of Macedonia, of whom 44 were convicted of a criminal offence, 30 were convicted of minor offences and 30 were in detention. The largest number of them - 26 - were citizens of the Republic of Macedonia, and 23 were citizens of the Federal Republic of Yugoslavia. Of the foreign citizens, 18 were serving a prison sentence for the crime of illegal drug production and trafficking, three persons for crimes against life and body, one person each for crimes against the rights and freedoms of the individual and citizen and crimes against the dignity of the person and morality, and 14 persons for crimes against property.

222. During this period, a total of 83 convicted persons received disciplinary punishment. The disciplinary measure of solitary confinement with work was pronounced against 13 persons, and the measure of solitary confinement without work was pronounced against 38 persons.

Article 11. Prohibition of imprisonment on the grounds of inability to fulfil a contractual obligation

223. Article 11 of the Covenant contains an additional restriction on the authorities in depriving a person of libety on the grounds of inability to fulfil a contractual obligation. The legislation of the Republic of Macedonia does not contain such an explicitly formulated prohibition. However, the fact that in the Republic of Macedonia a punishment of imprisonment may follow only as a result of a conviction for a crime, and not for a breach of a contractual obligation, speaks indireclty of its prohibition. This comes out in article 33 of the Criminal Code, according to which a punishment of imprisonment and a fine may be pronounced against crimianally responsible offenders.

224. The measure of deprivation of liberty is not foreseen in the list of measures contained in the Law on Executive Procedure. This Law contains the rules for action by the court for the purpose of forced execution of financial and non-financial claims, as well as for securing a claim, and determines the means of execution. Also, the Law contains a provision in article 44 according to which the competent official, when undertaking the actions that have come into effect, must act with due respect towards the personality of the debtor and the members of his family. The party to or participant in the proceedings may request that the court correct an iregularity in the actions of the official. Furthermore, article 5 of the Law on Executive Procedure foresees the principle of protection of the debtor according to which the execution may not be implemented upon objects and rights which are necessary to meet the basic needs of the debtor and of the persons whom he is obliged by law to sustain. Also, care will be taken to respect the dignity of the debtor.

Article 12. The right to freedom of movement and to free choice of residence

225. Freedom of movement and free choice of residence of the citizens, as one of the fundamental civil and political rights and freedoms of the individual, is regulated in the Constitution of the Republic of Macedonia from several aspects: freedom of movement and free choice of residence, the freedom of the citizen to leave the territory of the Republic and to return, and restrictions on these rights.

226. According to article 27 of the Constitution: "Every citizen of the Republic of Macedonia has the right to free movement on the territory of the Republic and to choose freely the place of his residence; every citizen has the right to leave the territory of the Republic and to return to the Republic; the exercise of these rights may be restricted by law only in cases where it is necessary for the protection of the security of the Republic, criminal investigation, or protection of people's health."

227. The right to free movement and the right to free choice of residence guaranteed by the Constitution, is operationalized in Macedonian legislation by the Law on Registration of Residence and Place of Abode of the Citizens. 8/ This Law uses the terms residence and place of abode. When making a change of residence, in accordance with article 3 of this Law the citizen is obliged to cancel the previous residence and to register the new residence within eight days from the day of moving. Also, if the citizen changes his place of abode, he is obliged to report this change within eight days. For juveniles this is done by a parent. The Law provides exemptions from the obligation to cancel and re-register one's residence in article 6, so that the obligation does not concern: military persons residing in barracks or other military institutions; employees of the Ministry of Internal Affairs accommodated in special-purpose facilities of the Ministry; convicted persons serving a sentence in penal or correctional institutions or educational and correctional houses; persons who are under treatment in health care institutions; as well as persons who are residing in privately-owned buildings or dwellings for recreation and rehabilitation.

228. In the registration procedure, the citizen is obliged to submit an identification card or other document to prove his identity and, if registering a new dwelling, a certificate that he has cancelled his previous residence, he must also submit as proof of a secured dwelling. 9/ The competent organ for the registration of residence, according to article 9 of the Law is the Ministry of Internal Affairs.

229. Free movement is unlimited on the whole territory of the Republic of Macedonia, except in the border belt, which is regulated by the Law on Crossing the State Border and Movement in the Border Belt. According to article 32, paragraph 1, of this Law, citizens of the Republic of Macedonia may move and stay in the border belt only if they have a permit for this. Violations of this provision are subject to sanctions. In the period 1993 to June 1997, the State border of the Republic of Macedonia was crossed illegally by 26,215 foreign citizens of whom the largest number were registered at the Macedonian-Albanian border. These prohibited crossings became more frequent after the recent disturbances in Albania.

230. The right of the citizen to leave the territory of the Republic and to return to the Republic, from article 27, paragraph 2, of the Constitution of the Republic of Macedonia, is a confirmation of international acts and agreements on the free movement of people in the world. A condition for travel abroad is possession of a valid passport. The types of and the procedure for issuing a passport is regulated by the Law on Passports for Citizens of the Republic of Macedonia. For travel to some foreign countries, citizens of the Republic of Macedonia need a visa.

231. A request for a visa or a passport, according to article 37, shall be refused if (a) a proceeding for a criminal offence has been initiated against the person requesting the passport or a visa, for which a punishment of imprisonment for at least three months is foreseen, upon the request of the competent court; and (b) the person has been sentenced to an unconditional punishment of imprisonment for more than three months. If one of these situations appears after the passport or visa has been issued, upon the

request of the competent court the passport shall be taken away and the visa shall be annulled. The submitted request may be refused or annulled also for reasons of national security or of the health of people.

232. When a request is refused or annulled, the ruling must contain the reasons for the decision. An appeal can be made to the government commission for resolving administrative matters and after the administrative act comes into effect, judicial protection may be sought via administrative proceedings before the Supreme Court of the Republic of Macedonia.

233. At the request of the person whose request was refused or whose passport was taken away or whose visa was annulled, the Ministry of Internal Affairs may, in justified cases (death of a family member, medical treatment abroad, urgent official matters, etc.) in conformity with article 41 of the Law, issue a temporary passport or visa if the competent court agrees.

234. According to the data of the Ministry of Internal Affairs of the Republic of Macedonia, in the period 1993 to June 1997 a total of 982,989 requests were submitted for passports. A total of 981,497 passports were issued. The remaining 1,492 persons were not issued passports because of a non-regulation citizenship status or existence of a court ban on issuing them a passport. No appeals were made, but 46 appeals were submitted by persons whose passports were taken away later on in conformity with the valid regulations.

235. The right to return to the Republic, from paragraph 2 of article 27 of the Constitution, is a confirmation of article 4, paragraph 2, of the Constitution, according to which citizenship cannot be taken away, nor can a citizen be expelled or extradited.

Restriction on the right to free movement

236. Exercise of the right to free movement and free choice of residence, in conformity with article 27, paragraph 3, of the Constitution of the Republic of Macedonia, may be restricted only in the cases when this is necessary for:

(a) Protection of the security of the Republic. The constitutional grounds for this restriction is operationalized by the Law on Defence and the Law on Crossing the State Border and Movement in the Border Belt. Article 122 of the former law determines that for the purpose of protecting defence interests, the Government may, through a by-law, determine the zones where free movement, stay and settlement are restricted. According to article 48 of the latter law, the Minister of Defence may, whenever necessary for the purpose of protecting the security of the Republic of Macedonia prohibit movement and stay in certain areas of the border area during a specific time. This prohibition does not refer to persons settled and residing in such border areas. Article 49 determines the right of the Government of the Republic of Macedonia to prohibit or to restrict movement and settlement in certain border areas on land, rivers and lakes within a range of 10 kilometres;

(b) Conducting a criminal proceeding. The grounds for this restriction are regulated by the Criminal Procedure Code, according to which when measures of detention are pronounced or the accused gives a promise not

to leave the place of residence, the court may pronounce a temporary confiscation of the passport or a prohibition to issue a passport, if there is fear that during the proceedings the accused could hide or leave for an unknown place or abroad. An appeal against this ruling does not delay its execution;

(c) Protection of the health of the people. This restriction is regulated by the Law on the Protection of the Population against Infectious Diseases, under which compulsory isolation and medical treatment of persons who are determined to be suffering from infectious disease are foreseen. The Law also determines that extraordinary measures may be introduced by a regulation of the Ministry of Health, in order to prevent the introduction to the country and propagation of such diseases, such as prohibition to travel to a country where there is an epidemic of one of these diseases, prohibition of movement of the population or restriction of movement in the infected or directly threatened area.

237. The normative grounds for the right of foreigners to free movement in the Republic of Macedonia is regulated by the Law on the Movement and Stay of Foreigners. The freedom of movement of foreigners covers: (a) the right to enter the territory of the State; (b) the right to exit the territory of the State; (c) the right to movement within the territory of the State; (d) the right to transit the territory of the State; and (e) the right of foreigners to stay.

238. The right to enter the territory of the State. According to article 4, paragraph 1, of this law, a foreigner may enter the Republic of Macedonia and may stay on the territory of the Republic, if he has a valid foreign passport or other valid travel documents or a passport issued by the Ministry of Internal Affairs or diplomatic consular representative of the Republic of Macedonia abroad. In the period 1993 to June 1997, 50,501 passports were issued to foreigners, the majority of whom were persons who lived in the territory of the Republic of Macedonia before the dissolution of the SFRY and who, for various reasons, could not regulate their citizenship status in the Republic of Macedonia. According to article 17 of the law, entry into the Republic of Macedonia shall not be permitted, nor a visa issued to a foreigner:

(a) Who has been expelled from the Republic of Macedonia or whose stay is denied;

(b) Who is known to be a criminal or for whom there are grounds to suspect that he is coming to the Republic of Macedonia with the intention to commit terrorist or other criminal offences;

(c) Whose stay in the Republic of Macedonia would represent a financial burden to the State;

(d) Who does not hold an obligatory entry visa for the State to which he is travelling;

(e) Who on the application for an entry visa gave incorrect data about himself or about the purpose of his travel and stay, or who used false documents;

(f) Who does not have documents from which his identity can be determined; and

(g) Who comes from an area with infectious diseases and who does not have proof of vaccination.

239. The right of a foreigner to exit the territory of the State is guaranteed by article 16 of the Law on the Movement and Stay of Foreigners, according to which a foreigner leaving the territory following a legal stay is issued an exit visa. As an exception, according to article 18, paragraph 3 of this law, a foreigner against whom a criminal or civil proceedings is being concluded shall not be issued a visa during the proceedings, if requested by the competent court. In the cases referred to in article 17 of this Law, the Ministry of Internal Affairs may orally refuse to issue a visa. The decision to refuse to issue an exit visa is noted in the passport, and it is final.

240. The right of foreigners to move within the territory of the State is conditioned by the law only on the obligation of the foreigner to register his place of stay or residence, or changes of address, within eight days from the day of arrival in the place of stay or residence, and to cancel the registration within 24 hours before leaving. According to article 33 of the Law on Crossing the State Border and Movement in the Border Belt, a foreigner may move in the border belt only if he receives permission for this from the Ministry of Internal Affairs. The request to issue a permit may be refused for reasons of national security (art. 33, para. 4).

241. The right of foreigners to pass through the territory of the State. According to article 7 of the Law on the Movement and Stay of Foreigners, a foreigner crossing the territory of the Republic is issued a transit visa for a single trip with a duration of five days, counting from the day of entry to the State. A group of foreigners who are crossing the territory of the Republic of Macedonia with a common passport are issued a collective transit visa.

242. The right to stay covers temporary stay, permanent settlement, the right to asylum and refugee status. The permit to stay may be permanent or temporary.

243. A foreigner may be granted temporary stay on the territory of the Republic of Macedonia in several ways, on the basis of a passport, a tourist pass, an identity card and a permit for temporary stay. A foreigner who enters the territory of the Republic of Macedonia with a valid passport may stay without special permission for up to three months, that is until the expiration of the visa, counting from the day of entry into the country. A foreigner who comes for a tourist or business visit and who does not have a valid passport may be issued a tourist pass by the competent body of the Republic of Macedonia at the State border, on the basis of an identity card or other identity document which is valid in the country of the foreigner. The tourist pass enables the foreigner to stay for up to 30 days. A foreigner

may, before the expiration of a temporary stay granted on the basis of a passport, submit a request to the Ministry of Internal Affairs for a stay of longer than three months. A temporary stay in the Republic of Macedonia is approved upon a written request of the foreigner who comes for the purpose of education, specialization, medical treatment, performing some professional activity, concluding marriage with a national of the Republic of Macedonia, exercising the right on the grounds of employment or ownership of real estate on the territory of the Republic of Macedonia, or due to the existence of other justified reasons (art. 20, para. 2). Permission for temporary stay is issued with a validity of up to one year or until the expiry of the validity of the foreign passport, if this is shorter, with the possibility of extension to a maximum of one year.

244. According to article 23, paragraph 1, of the Law on the Movement and Stay of Foreigners, permission for permanent stay may be issued to a foreigner who is legally and continuously staying at least three months on the territory of the Republic, and who meets the conditions for permission of temporary stay that justify his permanent stay. The Law does not define the conditions that justify the permanent stay of the foreigner; those are assessed by the Ministry of Internal Affairs. Permission for permanent stay may be issued to a foreigner whose stay is in the interest of the Republic of Macedonia even before the period of three years of continuous and legal stay on the territory of the Republic of Macedonia expires. A permanent and temporary stay, that is, extension of temporary stay, shall not be approved to a foreigner: (a) if there are no reasons for him to need to stay in the Republic of Macedonia (art. 20, para. 2 or art. 23); (b) who has no means of sustenance; (c) who entered the Republic of Macedonia contrary to the provisions of the Law; and (d) if the reasons exist from article 17, paragraphs 1, 2, 5, 6 and 7 of this Law. Permission for permanent and temporary stay of the foreigner terminates: (a) when the validity of the permission for temporary stay expires and the foreigner has not submitted a request for extension of the permission; (b) when a foreigner who has a permission for permanent stay moves away or stays abroad continuously for longer than one year and who has not informed the Ministry of Internal Affairs about this; (c) when he has been sentenced to a security measure of expulsion, or when his stay in the Republic of Macedonia has been cancelled; and (d) when he obtains citizenship of the Republic of Macedonia.

245. The stay of a foreigner may be cancelled: (a) when this is required by reasons of national security; (b) if he refuses to implement decisions of State bodies; (c) if he commits repeated or more serious violations of the system established by the Constitution and the laws, peace and order, or the security of the State border of the Republic of Macedonia; (d) if he gives incorrect data in his request for an entry visa for the Republic of Macedonia, about himself or about the purpose of his stay, or if he uses false documents; (e) if he is sentenced to prison for at least three months during his stay by Macedonian courts or a foreign court for committing a criminal offence; (f) if he remains without means of sustenance, and his sustenance during the stay in the Republic of Macedonia is not secured in some other way; and (g) when this concerns protection of the health of the people.

246. The decision to refuse the stay is made by the Ministry of Internal Affairs. The foreigner has the right to appeal. After the administrative act

comes into effect, the foreigner has the right to judicial protection via administrative proceedings before the Supreme Court of the Republic of Macedonia.

247. A foreigner who does not leave the territory of the Republic within the determined period, as well as a foreigner who stays longer than the time of his visa validity, or the period specified in the permission for temporary stay, shall be escorted by an authorized official of the Ministry of Internal Affairs to the State border or to the diplomatic or consular representative office of the country whose citizen he is, or he will be escorted to the State border and handed over to the representatives of the foreign State whose citizen he is.

248. A foreigner who is expelled from his country because of his political convictions or actions may be granted asylum. The decision to grant asylum rests with the Ministry of Internal Affairs. The foreigner may appeal a negative decision to the commission of the Government of the Republic of Macedonia for resolving administrative matters at second instance.

249. A stateless person or a person who has left the country whose citizen he is, or who has permanent residence in that country, in order to avoid persecution because of his political convictions and actions, cultural or scientific activities, or because of his national, racial or religious affiliation may be granted refugee status in the Republic of Macedonia. This decision also rests with the Ministry of Internal Affairs and the appeal procedure is the same. According to article 29 of the Law on the Movement and Stay of Foreigners, for the purposes of national security and defence of the Republic of Macedonia, the Government may, by a Special Act, restrict or prohibit the movement of foreigners in certain areas or prohibit permanent or temporary stay in certain places.

Article 13. Expulsion of a foreigner

250. According to article 34 of the Law on the Movement and Stay of Foreigners, a foreigner may be expelled from the territory of the Republic of Macedonia if he is sentenced to a security measure of expulsion from the Republic of Macedonia for a criminal offence, that being one of the security measures contained in the criminal legislation of the Republic of Macedonia which aims at eliminating situations or conditions that may have an impact on whether a perpetrator will commit criminal offences in the future. This measure is pronounced by the court following a guilty verdict. It concerns one specific person, thus excluding any possibility of collective expulsion of foreigners.

251. According to article 69 of the Criminal Code, the court may pronounce a security measure of expulsion of a foreigner from the country for a duration of 1 to 10 years, or forever. When assessing whether to apply this measure, the court shall take into account the motives for perpetrating the criminal offence, the manner of perpetration of the criminal offence, and other circumstances that point to the undesirability of a further stay of the foreigner in the country. The duration of the expulsion is calculated from the day the decision comes into effect; time spent in prison is not calculated in the duration of this measure. Furthermore, the Law on Violations in

article 24 foresees that the security measure of expulsion of a foreigner from the country may be applied only when the perpetrator has been sentenced to a prison term or a fine. The expulsion may last for six months to two years. A pardon for the offence may be obtained, whereby the expulsion measure is annulled or shortened.

252. The foreigner has the right to appeal against the court's decision to a higher court, pursuant to the provisions of the Law on Criminal Proceedings and the Law on Violations.

253. According to article 261 of the Law on the Execution of Sanctions, the security measure of expulsion of a foreigner is executed by the Ministry of Internal Affairs, which determines when the foreigner must leave the country. The foreigner has the right to appeal against this decision to the Government commission for resolving administrative matters at the second instance, which does not delay the execution of the decision. The decision is also registered in the passport and, if the foreigner so requires, a separate decision is issued.

254. If the foreigner does not leave the territory of the Republic of Macedonia by the set deadline, an authorized official from the Ministry of Internal Affairs shall escort him to the State border or to the diplomatic consular representative office of the State whose citizen he is, or he shall be escorted to the State border and handed over to representatives of the foreign country. Forced removal of a foreigner shall not be allowed from the Republic of Macedonia to a country where his life would be in jeopardy because of racial, religious or national affiliations or politcal convictions, or if a danger exists that the foreigner will be exposed to mistreatment and inhuman behaviour (art. 39 of the Law on the Movement and Stay of Foreigners).

255. During 1993 a total of 99 foreign citizens were sentenced in the Republic of Macedonia for committing criminal offences, against whom a security measure of expulsion was passed in 14 cases. In 1994, of the total of 117 sentenced foreign citizens, the security measure of expulsion was passed in 20 cases. In the period 1995-1997, of 272 foreign citizens convicted of crimes, the security measure of expulsion of a foreigner was passed in 123 cases. A total of 378 foreign citizens were punished for violations, but there was no case where the security measure of expulsion of a foreigner was passed.

Article 14. Equality before the courts and the right to a fair and public hearing by an independent court established by law

256. The principle of equality of citizens before the courts is derived from the general principle of equality of citizens contained in article 9 of the Constitution according to which citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of sex, race, colour of skin, national or social origin, political or religious beliefs, property or social status. Citizens are equal before the Constitution and the laws. Also, in article 50 of the Constitution it is determined that every citizen may invoke

the protection of rights and freedoms stipulated in the Constitution before the Constitutional Courts of Macedonia through a procedure based upon the principles of priority and urgency.

257. The constitutional provisions on equality of all before the law and about equal right to protection of civil rights are reflected in the Law on the Courts. According to article 7 of this Law, everyone has the equal right to approach the courts for protection of his rights and legally founded interests. Access to the courts may not be restricted for anyone because of lack of financial sources. Also, no one is exempted from the judiciary authority, except when the Constitution and international agreements, ratified in conformity with the Constitution, determine cases of immunity.

258. The right to a fair trial and the minimal rights guaranteed to every person accused of a criminal offence, contained in article 14 of the Covenant, are contained in the Law on the Courts and in the Criminal Procedure Code. Article 7 of the Law on the Courts guarantees everyone the right to a legal, impartial, honest hearing within a reasonable time. A similar provision, but with a clear instruction as to the rights of the person accused of a criminal offence, can be found in article 4 of the Criminal Procedure Code, according to which a person accused of a criminal offence has the right to an equitable and public hearing within a reasonable time, before a competent, independent and impartial court, established by law.

259. According to article 8 of the Constitution, one of the fundamental values of the constitutional system of the Republic of Macedonia is the division of powers into legislative, executive and judiciary. The fundamentals of the court system are determined by the Constitution in articles 98-108. According to the Constitution, judicial power in the Republic of Macedonia is wielded by the courts. The courts are independent and autonomous, and they operate on the basis of the Constitution and the laws, and international agreements ratified in conformity with the Constitution. The organization of the judiciary is fixed; extraordinary courts are prohibited. The types of courts, their competence, establishment, dissolution, organization and composition, as well as the proceedings before them, are regulated by a law enacted with a two thirds majority of Parliament.

260. The Law on the Courts was enacted in 1995. Among other things, the Law determines the goals and functions of the judiciary which include: (a) impartial implementation of the law regardless of the position and nature of the parties; (b) advancement, within the framework of the court's function, of the protection and respect of human rights and freedoms; and (c) legal security and the creation of conditions for every man to live safely within the framework of the implementation of the law. In regard to the competence of the courts, the law determines that the courts decide, in proceedings determined by law, on the following: the rights of citizens and legally grounded interests; disputes between citizens and other legal entities; punishable crimes and other matters placed in the competence of the court by law.

261. Judicial power in the Republic of Macedonia is exercised in 27 basic courts, three appellate courts and the Supreme Court of the Republic of Macedonia. The judges in all the courts were elected in the period 1995-1997,

when the judiciary started to function on the basis of the provisions of the Law on the Courts. During 1996 and 1997 the Public Prosecutors in the Basic Public Prosecutor Offices, in Higher Public Prosecutor Offices and the Public Prosecutor of the Republic of Macedonia were appointed.

262. The basis for an equitable and fair trial are represented by the principle of contradiction, whose essence is to provide equity and equality of the parties in the court procedure. This principle enables the parties' unhindered presentation of their opinions and arguments on all factual and legal issues that are the subject of the proceedings, and obliges the court to hear both parties to the dispute, an obligation that is expressed in the formula audiatur et altera pars. In a criminal proceedings where the parties are the authorized plaintiff and the defendant, the principle of contradiction is expressed as equal competition between the charges and the defence before an impartial court. Criminal proceedings are developed upon the principle of contradiction from their start and not only at the main hearing. Even at the first interrogation of the accused in the preliminary proceedings, he must be informed about the criminal offence for which he is accused and of the grounds of the charges, and he also must be enabled to express himself about all facts and evidence that accuse him, and also to present everything that is beneficial to him; when the parties are present at certain investigative actions; they have the right to express themselves and to give comments; the submitted accusation is immediately delivered to the defendant, who has the right to make an objection against it, which represents a written form of contradiction.

263. The main hearing is also contradictory because it starts with the presentation of the plaintiff, after which the word is given to the other side, i.e. to the defendant; the final words of the parties are also in the spirit of contradiction. Contradiction is also expressed in the proceedings on legal remedies; a copy of the appeal is sent to the opposing party, which has the right to answer the appeal.

264. Contradiction, as one of the basic principles of the proceedings, has equal application both in the criminal and civil procedures. The procedure before the courts on the rights and obligations of citizens has been legally regulated by the Law on Process Proceedings, the Law on Out-of-Court Proceedings, the Law on Executive Proceedings, the Law on the Family, and other laws that contain provisions of a litigatious nature. These laws regulate the actions of the courts in disputes in personal, family and inheritance-legal relations, labour relations, property and other civil-legal relations between natural and legal entities.

Independence of the judiciary

265. The Law on the Courts contains numerous provisions that guarantee the independence of the judiciary. In the realization of their goals and functions, the courts are bound only by the Constitution, the laws and the international agreements ratified in conformity with the Constitution. In the implementation of the Law, the judge is not bound by the legal opinion of a higher-order court. The judge makes impartial decisions based on his free assessment of the evidence and the rule of law. In the decision-making, no restrictions, influences, stimulation, pressure, threats, or interventions,

direct or indirect, may be imposed upon the judge by any entity and for any reason. Neither by law nor by act of the executive power is it permitted to review court decisions or to change the composition of the court in order to influence the decision-making of the court. Every State authority is obligated to refrain from performing or omitting to perform an action that hinders the passing or execution of a court decision.

266. The independence of the judiciary is also provided for in the provisions of the Law on the Courts which determine the inviolable action of a court decision that has become effective and that a court decision may be amended or cancelled only by a competent court in a procedure regulated by law.

267. According to the Constitution and the Law on the Courts, judges are elected without limitation of the duration of their mandate. Judges are elected and dismissed by Parliament on the proposal of the Republic Court Council. The Republic Court Council is a new body, introduced for the first time in 1991 by the Constitution. According to article 104 of the Constitution, the Republic Court Council consists of seven members elected by Parliament from among renowned jurists. The Council proposes to Parliament the election and dismissal of judges; decides on the disciplinary responsibility of judges; assesses the professionalism and conscientiousness of judges in the execution of their functions; and proposes two judges for the Constitutional Court of the Republic of Macedonia. With the establishment of this body, the independent position of the judicial authority was completed, thus allowing assessment in the most sensitive domain (election and dismissal of judges) to be carried out by a professional and not a political body.

268. Any citizen of the Republic of Macedonia can be elected as a judge who meets the general conditions determined by law for employment in a State administrative body, who has a law degree, who has passed the bar examination, and who enjoys a good reputation in the execution of court functions. In addition to these conditions, to become a judge of a basic court, the person must have over 5 years' work experience and accomplished positive results on legal matters after he has passed the bar examination, to become a judge of an appellate court experience of over 10 years is required, and for a judge of the Supreme Court experience of over 12 years.

269. The judicial function cannot be combined with the performance of any other public function or profession, or with membership in a political party. The Law on the Courts foresees the following as public functions that are incompatible with the judicial function: the function of a member of Parliament, i.e. member of the Council of the Local Self-Government Units, and functions in the organs of the Republic or the municipality and city of Skopje. In addition, the Constitution explicitly prohibits, in article 100, paragraph 3, political organization and action in the judiciary. A judge cannot be a member of or perform a political function in a political party or exercise party or political activities. Judges may establish associations for the promotion of their interests, professional training and protection of the independence and autonomy of the judicial.

270. Judges enjoy immunity. The Parliament of the Republic of Macedonia decides on the immunity of judges. A judge or lay-judge cannot be held responsible for an opinion or decision made in the course of legal proceeding.

A judge cannot be detained without the approval of Parliament, except if he is caught in the act of perpetrating a criminal offence which carries a prison sentence of at least five years. The decision procedure on the immunity of judges is urgent and it is implemented after obtaining a previous opinion from the Republic Court Council.

271. A judge is dismissed in cases determined by the Constitution and in a procedure determined by law. According to the Constitution, a judge is dismissed: (a) if he requests this himself; (b) if he permanently loses the capacity to perform the function of judge, which is determined by the Republic Court Council; (c) if he meets the conditions for an old age pension; (d) if he is convicted of a criminal offence carrying an unconditional prison sentence of at least six months; (e) for serious disciplinary violation, regulated by law, which makes him unworthy to perform the function of judge, which is determined by the Republic Court Council; and (f) because of unprofessional and unscrupulous performance of the function of judge, which is determined by the Republic Court Council in a procedure determined by law. The following constitute serious disciplinary violations which makes a judge unworthy of performing the judicial function and because of which he can be dismissed: (a) serious violation of public peace and order, which undermines his reputation and the reputation of the court; (b) party and political activities; (c) performing a public function or profession; (d) causing a serious disturbance of the relations in the court which significantly influence the performance of the function of judge; and (e) a serious violation of the rights of the parties and of other participants in the proceedings, thus damaging the reputation of the court and of the function of judge. A judge can be removed at the time of his detention, during the investigation of the criminal offence, when a disciplinary procedure has been initiated and when a procedure has been initiated to dismiss him.

272. Also important for the independence of the judiciary are the provision of the Law on the Courts according to which a judge in the exercise of the judicial function may not accept presents from the parties or persons who, directly or indirectly, have an interest in the litigation, as well as the provision that prohibits the initiation of a procedure against a judge or lay-judge for compensation of damages or some other procedure by a party dissatisfied by the court decision.

273. According to the Law on the Courts, the police cannot enter the court area except when this is urgently needed in order to prevent general danger or upon the call of the President of the court or of a judge, in the case of the absence of the President, in order to prevent a criminal offence. Security of the buildings, premises and persons and the maintenance of order in the court is performed by the court police.

274. The independence of the judge in deciding a specific case is also ensured by the implementation of the principle of exemption. According to article 36 of the Criminal Procedure Code, a judge or lay-judge cannot perform a court function if: (a) he has been damaged by a criminal offence; (b) the accused, his defence counsel, the prosecutor, the plaintiff, the damaged person, his legal representative or authorized person is a marital or non-marital partner or a relative; (c) if the defendant, his counsel, the plaintiff or the damaged person is a guardian, ward, adoptive parent, adoptive

child, provider or dependent; (d) if in the same criminal case he has performed investigative actions or has participated in the investigation of the accusation before the main hearing, or has participated in the proceedings as plaintiff, defence counsel, legal representative or authorized person, or he was interrogated as a witness or expert; (e) if in the same case he has participated in the decision-making of the lower order court; and (f) if there exist circumstances that create doubt as to his impartiality.

Public access and excluding the public

275. Public trial is at the same time a constitutional and a litigation principle. According to article 102 of the Constitution, the court hearings and the reading of the verdict are public. The public may be excluded in cases determined by law. The principle of public access applies to discussion before the courts in general, and it also has equal application in the criminal and civil proceedings.

276. Public proceedings are a right of the parties to the proceeding as well as of third persons who are not directly interested in the outcome of the proceedings. The principle of public proceeding is contained in article 279 of the Law on Criminal Proceedings, according to which the main hearing is public. The main hearing may be attended by adults. The Law also determines the cases when the public may be excluded: (a) if this is required for reasons of confidentiality; (b) for maintaining the public order; (c) for the protection of morals; (d) for protection of the personal and intimate life of the defendant, witness or injured persons; and (e) for protection of the interests of a juvenile. The court may exclude the public at any time after the opening of the session until the end of the main hearing. Third persons may be excluded. The council may allow, at a main hearing from which the public has been excluded, the presence of certain officials and scientific and public workers, and, upon the request of the accused, his marital, or non-marital partner and his close relatives. The President of the Council shall warn the persons attending the main hearing from which the public has been excluded that they are obliged to keep secret everything they hear at the hearing, and he shall point out to them that disclosing the secrets is a criminal offence. The decision to exclude the public is made by the Council by a ruling which has to be elaborated and presented publicly. This ruling may be refuted only in the appeal against the verdict.

277. The main hearing may be attended only by adults. Juveniles are excluded, even when the hearing is public, and the public is excluded from a hearing concerning a juvenile. If a person younger than 14 is interrogated as a witness, the Court Council may decide to exclude the public during his interrogation. The juvenile who is present at the main hearing as a witness or as the injured person shall be removed from the courtroom immediately as soon as his presence is no longer required.

278. It is also required to announce to the wider public the time (day and hour) and location of the scheduled trial. The procedure is not a formal obligation of the court, but the court cannot keep this information secret and must provide statements to the press at its own initiative or upon request. The court itself, according to the provisions of the Book of Rules of the court, is obliged to post at a specific place in the court a notice stating in

which council and in which room the case will be discussed. The press must be able to publish the details and results of the main hearing. In article 29 of the Law on the Courts, it is stipulated that the information for the public, through the media, regarding a specific case is provided by the President of the Court or another authorized person taking care not to ruin the reputation, honour and dignity of the persons involved, and if this is not damaging to the independence and autonomy of the court.

279. The verdict must be published. According to article 344, the President of the Council, in the presence of the parties, their legal representatives, authorized persons and defence counsel, shall publicly read the verdict and give a short summary of the reasons for the verdict. If any of the parties is not present, the announcement shall be made to those present. The announcement of the verdict shall always be read in public session. The Council shall decide whether and to what extent it shall exclude the public when stating the reasons for the verdict. This concerns only cases when the public was excluded from the main hearing. It is not possible to exclude the public when making public the reasons for the verdict if the public was not excluded from the main areas.

280. The Law on Criminal Proceedings, in the part that regulates proceedings concerning juveniles, foresees several provisions that concern the public. According to article 467, the public is always excluded when a juvenile is on trial. The Council may permit the presence at the main hearing of persons who are engaged in juvenile protection and education or in the fight against juvenile criminality, as well as scientific workers. During the main hearing, the Court Council may decide to remove from the session all other persons except the Public Prosecutor, the defence counsel and representative of the guardian body. During the presentation of the evidence or during a speech by one of the parties, the Council may order the juvenile to be removed.

281. In order to protect the interests of the juvenile, the Law foresees certain restrictions in regard to the publication of the decision and the announcements to the public on the progress of the proceedings. Thus, for example, the development of the criminal proceedings against the juvenile may not be published without the permission of the court, nor the ruling passed at those proceedings. Only that part of the proceedings for which there is approval may be published, but the name of the juvenile and other data must not be given, based on which the identity of the juvenile could be concluded. Rulings and other decisions cannot be posted publicly.

282. The Law on Trial Proceedings that regulates the actions of the courts in civil cases contains almost identical provisions on the public nature of the hearings before the courts and about the exclusion of the public. The Law on the Family foresees exclusion of the public in marital and family disputes and in disputes over the maintenance of children.

Presumption of innocence

283. The presumption of innocence is contained in article 13 of the Constitution and in article 2, paragraph 1, of the Criminal Procedure Code. According to those provisions, a person accused of a criminal offence shall be considered innocent until his guilt has been determined by a court decision

that has become effective. The second paragraph of article 2 also contains the principle of in dubio pro reo as one of the essential consequences of the principle of presumption of innocence: the existence or non-existence of facts that may indicate that a criminal offence has been committed or on which depends the implementation of any provision of the Criminal Code is determined by the court in a manner favourable to the accused. It is derived from the principle of presumption of innocence that the burden of proof falls upon the prosecution: the accused is free from the obligation to prove his innocence, he has the right to be silent and not to give a statement. The accused must not be forced to testify against himself or against people close to him, or to confess guilt. Coercion of a confession is prohibited and punishable (art. 10 of the Criminal Procedure Code) and the court verdict may not be based on statements acquired by force, threat or similar means (art. 210).

284. The provision of article 1 of the Criminal Procedure Code is a function of the principle of presumption of innocence: before a verdict has been reached and come into effect, the rights and freedoms of the accused may be restricted only to the extent which is necessary and under the conditions that are foreseen by law. In that respect, the accused may be subjected to arrest and detention and other restrictions linked to the detention regime (arts. 183-197); photographing and taking fingerprints (art. 143); taking blood samples for testing, psychiatric or medical examination (art. 251); body search or search of the home (arts. 198-203); temporary confiscation of an object (arts. 203-208), etc.

Minimal guarantees of the accused in criminal proceedings

The right of the accused to be informed immediately and in detail in a language he understands about the nature and reasons of the indictment

285. The Criminal Procedure Code contains numerous provisions which insist on the right of the accused to be adequately informed about the indictment against him. Article 3 of the Law stipulates that a person who is summoned, arrested or deprived of freedom must be informed immediately, in a language he understands, about the reasons for the summons, arrest or deprivation of freedom, and about any criminal indictment against him, as well as about his rights, and he may not be requested to give a statement. Also, in article 4 of the Code, which stipulates the minimum rights of the accused, the right of the accused to be informed immediately, in a language he understands and in detail, about the crimes of which he is accused and the evidence against him, is foreseen.

286. These provisions are contained in the first part of the Code, under the title General Provisions - Basic Principles. According to article 210, during the first interrogation of the accused, he shall be informed of the accusations and about the grounds of the suspicions which exist against him. The investigating judge must interrogate the person concerning whom there is a request for an investigation before taking a decision to carry out an investigation. The Criminal Procedure Code specifies in detail the contents of the decision to carry out an investigation, the indictment and the summons. The decision to carry out the investigation, among other things, must also contain a detailed description of the suspected crime, the legal name of the criminal offence, the circumstances giving rise to the suspicion and the

existing evidence. An indictment must contain: a description of the crime, the time and place the criminal offence was perpetrated, the object upon which the criminal offence was perpetrated and the means used, as well as other circumstances required to specify the criminal offence more precisely; the legal name of the criminal offence with a reference to the relevant provisions of the Criminal Code; a proposal as to what evidence needs to be presented at the main hearing, with a list of names of witnesses and experts, documents that need to be read and objects that serve as proof; a detailed statement describing the factual situation, the evidence available, etc. The decision to carry out an investigation and the indictment are delivered to the accused.

287. Urgent proceedings are abbreviated. According to article 421 of the Criminal Procedure Code, the indictment contains only a short description of the criminal offence and a statement of the evidence that needs to be presented at the main hearing. As a rule the accused has not been interrogated previously, and therefore he cannot be informed as indicated above.

The right of the accused to have sufficient time and facilities to prepare the defence and to communicate with the defence counsel of his own choosing

288. The provision of article 14, paragraph 3 (b) of the Covenant is formulated in the same way in article 4, paragraph 2 (2) of the Criminal Procedure Code, as one of the minimum rights of any accused person in a criminal proceeding. In addition, the right to a defence counsel is a right guaranteed by the Constitution. According to article 12, paragraph 2, of the Constitution, a person has the right to a defence counsel in a police or court proceeding. This right is further elaborated upon in article 3, paragraph 2, of the Criminal Procedure Code, according to which a suspect must first of all be instructed in a clear manner about his right to be silent and the right to defence counsel.

289. At the main hearing, the accused is given sufficient time to prepare the defence. According to article 273, paragraph 3, of the Criminal Procedure Code, the summons of the accused must be delivered in such a way that between the delivery of the summons and the day of the main hearing, there is sufficient time for preparation of the defence, and in any case at least eight days. In urgent proceedings (for criminal offences for which a prison sentence of up to three years or a fine is foreseen), this deadline is at least three days. For the purpose of preparing the defence, the court may interrupt the hearing if the plaintiff changes the charges at the main hearing, or if new criminal offences are uncovered during the hearing.

290. In regard to the time for submitting legal remedies, the law foresees a deadline of 15 days (in urgent proceedings, 8 days) from the day of delivery of a transcript of the verdict. In regard to the right to inspect documents, according to article 69 of the Code, the defence counsel has the right to review documents and objects that serve from the moment the request is submitted to initiate criminal proceedings, i.e. from the moment the investigating judge undertakes the necessary activities before taking a decision to open an investigation. The accused has the same right, but only after he is interrogated.

291. According to article 166 of the Criminal Procedure Code, if the investigating judge finds out before the conclusion of the investigation that it is in the interest of the defence for the defendant and his defence counsel to be informed about important evidence collected during the investigation, he shall inform them that they may review within a specific time the objects and documents that concern this evidence and that they may make proposals for submitting new evidence. Domestic law and practice are not familiar with rules that would obligate the prosecution to disclose evidence to the defence, even though one must bear in mind the obligation of objectivity (the obligation to ascertain with equal attention both the facts that go against the accused, as well as those that are in his favour), in accordance with article 14 of the Criminal Procedure Code.

The right to be tried without undue delay

292. The right to a trial within a reasonable time is guaranteed by article 7 of the Law on the Courts and article 4, paragraph 1 of the Criminal Procedure Code. Also, according to article 13 of the Code, the court is obliged to carry out the proceedings without delay. In the Criminal Procedure Code there are several provisions which have their basic goal expedited litigation and to prevent unnecessary prolonging of the proceedings. According to article 168, if the investigation is not completed within 90 days, the investigating judge is obliged to inform the President of the court about the reasons; the President of the Council is obliged to schedule the main hearing at the latest 30 days from the day of receipt of the indictment, or to inform President of the Council why; at the main hearing, the President of the Council is obliged to provide a comprehensive review of the case, to discover the truth and to eliminate anything that prolongs the proceedings but does not serve the purpose of clarification of matters; immediately after the verdict is passed, it is published; if the court cannot reach a verdict on the same day the main hearing is completed, it shall postpone the publication of the verdict for up to 3 days; a published verdict must be prepared in writing within 8 days after publication and, in complex matters, exceptionally within 15 days. If the verdict is not reached within these deadlines, the President of the Council is obliged to inform the President of the Court of the reasons. Following the appeal proceedings, if the accused is in detention, the second instance court is obliged to deliver its verdict, with the documents, to the first instance court at the latest 45 days from the day of receipt of the documents from that court.

293. Urgency has special significance in proceedings against juveniles, for which the Criminal Procedure Code contains several provisions whose basic goals to complete the proceedings within the shortest possible time. According to article 447, the bodies which participate in the proceedings against a juvenile and other bodies and institutions from which information, reports and opinions are requested, are obliged to act with the utmost urgency in order to complete the proceedings as soon as possible. Furthermore, the judge for juveniles is obliged to schedule a main hearing within eight days from the day of receipt of the proposal from the Public Prosecutor or from the day the preparatory proceedings have been completed. For each prolongation of this time period, the judge for juveniles must have approval from the President of the court. Prolongation or interruption of the main hearing is

exceptional. For each prolongation or interruption, the judge for juveniles shall inform the President of the Court and present the reasons. The court for juveniles is obliged to publish the verdict within three days.

294. The judge for juveniles is obliged to inform the President of the court every month in which juvenile cases have not been completed and the reasons; the President of the court, if necessary, shall undertake measures to accelerate the proceedings.

295. The obligation for expedited action exists also in relation to the Public Prosecutor. According to article 167, the Public Prosecutor is obliged, within 15 days after completion of the investigation, to submit a proposal to supplement the investigation or to initiate prosecution or to give a statement that he abandons prosecution, and if this is not done within the set period, he is obliged to inform the Higher Public Prosecutor about the reasons. The strict limitation in the duration of detention of 90 days should also provide greater speed in resolving detention cases.

296. In order to expedite the proceedings, the law gives the possibility for the court during the proceedings, to punish, with a fine the defence counsel, the injured person, his authorized person or legal representative, the injured person as plaintiff or the private plaintiff, if his actions are evidently directed towards prolongation of the criminal proceedings. Furthermore, if the Public Prosecutor does not submit petitions to the court on time or if he undertakes other actions in the proceedings with a long delay, thus causing prolongation of the proceedings, then the Higher Public Prosecutor shall be informed.

The right to be present, the right to defence counsel, the right to legal assistance free of charge

297. The right to be present and trial in absentia. In article 4 of the Criminal Procedure Code, within the framework of the minimum rights of every accused, the right of the accused to be tried in his presence and to defend himself personally or with the assistance of a defence counsel of his own choice is also foreseen, and if he does not have sufficient means to pay for the defence counsel, he shall receive this free of charge when this is required by the interests of justice. The presence of the accused is one of the preconditions for holding a main hearing. If the accused who is properly summoned does not appear at the main hearing, and if he does not justify his absence, the Council shall order that he be brought by force, and if this could not be executed, the Council shall decide not to hold the main hearing and shall order that the accused be brought by force at the next hearing. If the properly summoned accused avoids coming to the main hearing and the reasons for detention foreseen by law do not exist, then the Council may order detention in order to ensure the presence of the accused at the main hearing. If it is not cancelled earlier, detention order lasts until the verdict is published, and at the most up to one month (article 292, paragraphs 1 and 2 of the Criminal Procedure Code).

298. The presence of the accused is also provided for in appeal proceedings. According to article 362 of the Code, the accused and his defence counsel must be informed about the session of the Council at which the appeal will be

heard. It is also compulsory to summon the accused and his defence counsel to hearings before the second instance court. If the accused is in detention, the President of the Council of the second instance court shall undertake everything necessary for the accused to be brought at the hearing (art. 364).

299. In article 292, paragraph 3, conditions are foreseen for the accused to be tried in absentia: if he is a fugitive or otherwise unavailable to the State bodies, and if there are especially important reasons for his trial even though he is absent. In cases when the accused is tried in absentia, the usual guarantees apply, primarily the right to a defence counsel (according to article 66 of the Criminal Procedure Code). The accused who is tried in absentia must have a defence counsel from the moment the decision is made for such a trial. If the accused and his defence counsel submit a request within one year from the day when the accused found out about the conviction in absentia, the trial must be repeated (article 398 of the Criminal Procedure Code).

300. The accused must be present at the main hearing from its start until its conclusion. He has the right to petition to elicit new facts and to submit new evidence, as well as to pose questions to the co-accused, witnesses and experts. As an exception, the accused may be removed temporarily from the main hearing if he disturbs the order in the court (art. 287). The accused may also be removed from the courtroom in cases when a co-accused or a witness refuses to give a statement in his presence, or if circumstances indicate they will not speak the truth in his presence. In such cases the defence counsel must be present and the accused informed of the contents of the statement. In urgent proceedings, if the accused does not appear at the main hearing, even though he was properly summoned or if the summons could not be handed over due to a change of residence which was not reported to the court, then the court may decide to hold the main hearing even in his absence, on the condition that his presence is not necessary and that he has been interrogated earlier.

301. In proceedings against juveniles, trial in absentia is not allowed.

302. <u>The right to defence counsel</u>. The right to defence counsel is a constitutionally guaranteed right. According to article 12 of the Constitution of the Republic of Macedonia, a person summoned, arrested or deprived of liberty has the right to a defence counsel in police or court proceedings. The right to defence counsel is made concrete in many provisions of the Criminal Procedure Code. According to article 63 of the Code, a suspect in pre-criminal proceedings, that is, the accused before the first interrogation, must be informed that he has the right to defence counsel of his own choice and that the defence counsel may be present during this interrogation.

303. The accused may defend himself and, as a rule, decides freely whether and whom to engage as his defence counsel. Nevertheless, this does not mean that this right is absolute because the accused may engage as his defence counsel only an attorney and, in article 66 of the Criminal Procedure Code, cases of compulsory defence are foreseen. For example, if the accused is deaf, dumb or incapable of defending himself successfully, or if criminal proceedings is conducted against him for a criminal offence for which the law foresees a punishment of life imprisonment, he must have a defence counsel

even at the first interrogation. The accused must have a defence counsel during detention. After the prosecution has been initiated for a criminal offence for which the law foresees a prison sentence of 10 years or more the accused must have defence counsel at the time the indictment is issued. The accused who is tried in absentia must have defence counsel once a decision is taken for such a trial.

304. In the cases of compulsory defence, if the accused does not engage a defence counsel by himself, then the court shall appoint one ex officio. The accused is informed about the appointment when the indictment is issued.

305. In addition to the cases of compulsory defence, defence ex officio is possible in cases when the accused cannot bear the expenses of decence. According to article 67 of the Criminal Procedure Code, when conditions for compulsory defence do not exist and the accused is being tried for a criminal offence for which the law foresees a prison sentence of over three years, defence counsel may be appointed for the accused, upon his request, if he can afford the expense of counsel. In regard to the expenses for the defence, even in cases when the accused is declared guilty, he is always exempt from the expenses in the cases when the defence counsel was appointed by the court, as well as in cases of compulsory defence, when the payment of legal expenses would endanger his sustenance and that of his family.

The right to interrogate witnesses

306. The right of the accused to be present during the interrogation of witnesses and to be able to ask questions is one of the minimum rights of the accused which is guaranteed by article 4 of the Criminal Procedure Code. This right is exercised by the accused both in the investigation phase and at the main hearing. During the preliminary proceedings the accused and the defence counsel may be present during the interrogation of witnesses and petition the investigating judge to ask specific questions and, with his permission, they may ask questions directly. The accused and defence counsel have the right to request that their comments be entered into the minutes in regard to the execution of certain investigatory activities, and they may petition for submission of specific evidence.

307. At the main hearing, witnesses are interrogated in the presence of the accused and when the President of the Council finishes his interrogation of a particular witness or expert, members of the Council may ask the witness direct questions. With the approval of the President of the Council, the accused and defence counsel may directly pose questions to the witnesses and experts. The President may ban the asking of questions or the giving of answers to an already posed question, if this is not allowed (if this concerns a leading or captious question - article 211) or if it does not concern the case. In this case, the parties may request that the Council decide on this.

308. In practice, the court dominates during the interrogation of witnesses, which is a consequence of its obligation to determine all facts. According to article 14 of the Criminal Procedure Code, the Court and State bodies are obliged, truthfully and fully, to determine the important facts for making a lawful decision. They are obliged to investigate and determine with equal attention both the facts that burden the accused and those that are beneficial

for him. However, until the completion of the main hearing, the parties may petition for submission of new facts and collection of new evidence. In that respect, the defence may petition for the interrogation of witnesses, but the court decides whether the interrogation of the proposed witnesses would contribute to determining the truth; if this is not the case, then it may refuse to interrogate them. This authorization of the court is somewhat restricted by the obligation of the court always to elaborate in the justification or the verdict, among other things, the reasons for not accepting the petitions from the parties, as well as the reasons why it decided not to interrogate directly the witness or expert whose statement was read without consent of the parties.

309. After the completed interrogation of every witness or expert, the President of the Council shall ask the parties and the inured person whether they have any comments. After the evidentiary proceedings are concluded, the President of the Council shall ask the parties and the injured person whether they have petitions for supplementing the proceedings.

310. The Law on Criminal Proceedings requires that all evidence of significance for proper decision-making be brought before the court (direct principle). This principle is supported by the request that, if, the proving of one fact is based on the testimony of one person, that person should be personally heard at the main hearing. The hearing cannot be replaced by reading from the minutes of a previously held hearing. The law also specifies exceptions to the direct principle. According to article 325, the minutes of statements of the witnesses can be read upon a decision of the Council only in cases when the witnesses have died, are mentally ill or cannot be found, or their appearance before court is not possible or is difficult due to old age, illness or other relevant reasons, or if the witnesses or experts have a legal reason not to give their statement at the main hearing.

The right to an interpreter

311. According to article 3, paragraph 1 of the Criminal Procedure Code, a person, detained or deprived of his liberty must immediately be informed, in a language he understands, of the reasons for such summon, detention or deprivation of liberty and of any criminal charges against him, as well as of his rights, and he may not be requested to give a statement. Every accused has the right to be informed immediately, in a language he understands and in detail, about the acts he is charged with and the evidence against him (art. 4). According to article 6, the official language of criminal proceedings is the Macedonian language and its Cyrillic alphabet.

312. A member of any nationality who is citizen of the Republic of Macedonia in criminal proceedings has the right to use the language of the nationality he belongs to and its alphabet. The court shall provide for such person an interpreter free of charge. The other parties, witnesses and participants in the proceedings before the court have the right to free of charge assistance by an interpreter when they do not understand or speak the language in which the proceedings are conducted. The person will be informed about the right to an interpreter and that will be included in the minutes.

313. Charges, complaints and other writs are filed with the court in the official language. A member of a nationality, citizen of the Republic of Macedonia has the right to file writs with the court in the language and alphabet of the nationality he belongs to. The court will translate such writs and submit the translations to the other parties to the proceedings. Persons who do not speak or understand the Macedonian language and its Cyrillic alphabet also have the right. A foreign citizen deprived of his freedom has the right to file writs in his own language, while in other cases - under the condition of reciprocity. Summonses, decisions and other writs are issued by the court in the official language and in the language of the recipient, where necessary.

The right of the accused not to be forced to give evidence against himself or to admit guilt

314. This guarantee is contained in article 4 of the Criminal Procedure Code as one of the minimum rights recognized for every accused person. Article 4 states that every accused has the right not to be forced to give evidence against himself or those close to him or to admit guilt. Instead of the word "testify", the Criminal Procedure Code uses the term "to give evidence", due to the fact that in our criminal proceedings the accused cannot be heard in the capacity of a witness - he is a party to the proceedings and has the right to silence, i.e. he is not obliged to state his defence. Also, the right guaranteed by the Criminal Procedure Code has a wider meaning because it refers not only to the accused, but also to people close to him. Besides this provision, the Criminal Procedure Code in article 10 provides that it is forbidden, and even penalized, to extort a consent from the accused or any other person participating in the procedure. According to article 142 of the Criminal Code extortion of a concession represents the criminal act of torture (concerning this and the manner in which the accused is interrogated, see article 7).

315. Besides this, the Law also prescribes that during the interrogation it should be made possible for the accused to explain the circumstances against him and to present facts that would serve in his defence. This right of the accused may not be restricted by anything. To provide for freedom of expression, giving false statement on behalf of the accused is not criminalized and does not represent a criminal act regardless of whether the statement contains only denial of guilt or accusations against other persons. Nevertheless, a false confession by the accused does have certain consequences. The accused does not have the right to request consideration for damage resulting from unfounded accusation when the accusation was a result of his false confession, unless he was force (article 526 of the Criminal Procedure Code).

316. The questions addressed to accused persons should be clear, understandable and comprehensive, so that he fully understands them. During the interrogation it should not be assumed that the accused has confessed something he did not confess, nor should questions be posed that already contain the answers. Deception may not be used against the accused with the purpose of obtaining confession (art. 211).

317. The accused must be informed of the right to silence. An important novelty in the Criminal Procedure Code is that the provision from the former Criminal Procedure Code, according to which an accused who does not want to answer may be advised that his silence might impede the collection of evidence for his defence, is no longer used since it is believed that this puts pressure on the accused to express himself.

318. The confession of the accused at the main hearing, irrespective of how comprehensive it is, does not free the court from its obligation to submit other evidence also (art. 315).

Procedure against juveniles

319. Facts of a biological, psychological and social nature contribute to determining the position of a minor person in the criminal legislation of the Republic of Macedonia. The material-legal position of juvenile perpetrators of criminal acts is regulated by the Criminal Code which contains a special chapter under the title Corrective Measures and Punishment of Juveniles. According to the Code, a minor person who at the time of the criminal act had not reached the age of 14 years (child) is not criminally liable and criminal sanctions cannot be invoked against him. Two types of sanctions can be applied against juvenile offenders (persons who at the time of committing the criminal act had reached the age of 14 years): corrective measures and juvenile prison sentences. Corrective measures can be pronounced against a minor who at the time of the criminal act had reached the age of 14 years but not 16 years (younger minor). Against older juveniles (16-18), besides the corrective measures, a juvenile prison sentence may exceptionally be pronounced. The main goal in passing correctional measures and juvenile prison sentences is the resocialization of the juvenile. According to article 73 of the Criminal Code, this is to be achieved through protection of and assistance to the juvenile offenders by supervising them, by giving them vocational training and by developing their personal responsibilities (to ensure their education and proper development). The aim of juvenile prison is to exert a stronger influence on the juvenile offender not to commit criminal acts in the future, as well as to preventively influence other juveniles. The criminal legislation of the Republic of Macedonia foresees a broad list of educational measures that give the court the possibility to individualize the punishment or to select that measure which best suits the personality of the juvenile offender and the specific needs for his resocialization. The educational measures may be divided in several groups: disciplinary measures (reprimand, sending to a disciplinary centre for juveniles); measures of reinforced supervision (reinforced supervision by a parent, reinforced supervision in another family or reinforced supervision by a social institution) and institutional measures (sending to an educational institution and sending to an education and correction house).

320. Disciplinary measures are pronounced when there is no need for longer-lasting measures of re-education and especially when the juvenile committed the criminal offence out of imprudence or frivolity. The measures of reinforced supervision are pronounced against the juvenile when there is a need for longer-lasting measures of education, re-education or medical treatment under appropriate supervision, but without his being fully separated from his environment. Institutional measures are pronounced against the

juvenile when there is need for longer-lasting measures of education, correction or medical treatment and complete separation from his environment (these measures cannot exceed five years).

321. When selecting an educational measure, the objective factors such as the type and seriousness of the criminal offence are of secondary importance. The subjective factors connected with the personality of the delinquent and the goals of resocialization have a primary role. The Criminal Code in article 75 obligates the court in the selection in the educational measure to take into consideration the age of the juvenile, the level of his physical development, his psychological state, his inclinations, motives for committing the crime, education level, environment and circumstances in which he lives, the seriousness of the crime, whether he had previously been sentenced to an educational measure or to juvenile imprisonment, and all the other circumstances that influence the determination of the type of measure in order to achieve the goal determined by law.

322. The punishment of juvenile imprisonment may be pronounced against a criminally responsible older juvenile who committed a criminal offence for which the law prescribes a punishment exceeding five years' imprisonment and, because of the serious consequences of the crime and the high degree of criminal responsibility, it would not be justified to pronounce an educational measure. The numerous conditions set by the law regarding the pronouncement of juvenile imprisonment contribute to measures being pronounced only as an exception, when the goals of the punishment cannot be achieved with an educational measure. When applying an educational measure a more pronounced role is given to disciplinary measures and measures of reinforced supervision, and only in exceptional cases are institutional measures resorted to which contain elements of repression to a greater or lesser extent.

323. In addition to the criminal sanctions, special criminal proceedings apply to juveniles which are regulated in a separate chapter of the Criminal Procedure Code. In the Republic of Macedonia no special courts for juveniles exist; however, within the framework of the basic and appellate courts, special councils for juveniles exist consisting of a judge for juveniles and two lay-judges whom the law prescribes must be selected from among professors, teachers, educators and other persons who have experience in the education of juveniles.

324. Criminal proceedings against juveniles are initiated only at the request of the Public Prosecutor, to whom the principle of opportunity applies i.e. for criminal offences for which the penalty is a prison sentence not exceeding three years or a fine, the Public Prosecutor may decide not to request initiating criminal proceedings against a juvenile even though evidence exists that the juvenile has perpetrated the crime, if the Prosecutor is of the opinion that it would not be appropriate to conduct such proceedings, in view of the nature of the criminal offence and the circumstances under which it was committed, the previous life of the juvenile and his personal characteristics.

325. In criminal proceedings against juveniles, special attention is given to the so-called preparatory proceedings during which are studied the personality of the juvenile, his mental development and the environment and circumstances in which he lives in order to choose the appropriate criminal sanction. In

order to determine in more detail all these circumstances, the Criminal Procedure Code foresees that no one may be exempted from his obligation to give testimony about the circumstances necessary to assess the mental development of the juvenile and to become familiar with his personality. Also, the law foresees that when undertaking actions in the presence of the juvenile, and especially during his interrogation, the authorities participating in the proceedings are obliged to act cautiously, having in mind his mental development, sensitivity and personal characteristics, so that the procedure will not have a harmful effect upon his development. Another specific feature of criminal proceedings against juveniles is the prohibition of trials of juveniles in absentia and the requirement that the juvenile have legal help from a lawyer from the beginning of the preparatory proceedings, in cases of a criminal offence for which a prison sentence exceeding five years is prescribed, or for lesser offences when the judge is of the opinion that the juvenile needs legal help. For the publicity and urgency of the proceedings against juveniles, see article 14 of this report, and for the detention and execution of punishment of juveniles, see article 10.

326. The fact that criminal proceedings against juveniles are not over with the degree absolute is another special characteristic. According to the Criminal Procedure Code, the court is required to oversee the execution of the measures pronounced. The management of the institution where an educational measure is being applied is required to submit a report every six months to the court about the behaviour of the juvenile. The judge for juveniles may himself visit the juvenile in the institution. Since educational measures are pronounced without specifying their duration, depending on the results of the re-education of the juvenile, the judge may change the duration of the measure, or stop it if he determines that the goal of its application has been achieved.

The right to appeal

327. The right to appeal is a constitutionally guaranteed right. According to article 15 of the Constitution, the right to appeal is guaranteed against individual legal acts passed, in court proceedings, by an administrative organ or organization or other institutions that perform public mandates. The existence of two instances is one of the basic principles of all court proceedings, but in criminal proceedings, considering that the verdict may infringe one of the most significant rights of the individual - liberty - this has special significance. According to the Criminal Procedure Code, an appeal against a verdict reached in original jurisdiction may be lodged by the parties, defence counsel, and the legal representative of the accused or the aggrieved person, within 15 days of the issuance of the verdict. The spouse of the accused or the non-marital partner, blood relative of the first degree adoptive parents, adoptive child, brother, sister and provider may lodge an appeal in favour of the accused.

328. The Criminal Procedure Code foresees four grounds upon which the verdict of original jurisdiction can be contested through an appeal: (a) a substantial violation of the provisions of the criminal proceedings; (b) a violation of the provisions of the Criminal Code; (c) a wrongly or incompletely determined factual situation; (d) because of a decision concerning criminal sanctions, confiscation of property gains, expenses or the

proceedings, property rights demands and because of a decision to publicize the verdict through the press, radio and television. Among the most significant essential violations of the rules of criminal procedure are: violation of the rules on the court's composition, violation of the rules on compulsory presence at the main hearing, exclusion of the public from the main hearing contrary to the law, exceeding the indictment, violation of the requirement for the verdict to be based upon evidence collected in a lawful manner, breaching the rights and freedoms of citizens as determined by the Constitution, laws and international agreements, violation of the right to defence, etc. The appellate court decides upon the appeal at a session in chambers or based on a hearing. The accused and his counsel, as well as the plaintiff and the aggrieved party, shall be informed about the results of the appeal. The President of the chamber may decide to inform the parties about the chamber's session even when they have not requested it, if their presence would be favourable for clarifying matters. If the accused is in detention or serving a sentence, and if he has defence counsel, he may be present only if the President of the chamber of the chamber itself find that this is useful. The public may be excluded from the council session attended by the parties for the same reasons that the public may be excluded from the court of original jurisdiction.

329. A hearing before the appellate court shall be held only if this is necessary due to a wrongly or incompletely determined factual situation, to establish new evidence or to repeat earlier evidence and, if justified reasons exist, not to return the case to the court of original jurisdiction. To the hearing before the appellate court shall be invited the prosecutor and the defence counsel, the plaintiff, the injured person, the legal representatives and authorized persons of the injured person, as well as witnesses and experts whom the court shall decide to interrogate. If the accused is in detention, the President of the appellate court chamber shall undertake everything necessary for the accused to be brought to the hearing. The parties may present new evidence and facts at the hearing.

330. The appellate court examines the part of the verdict which is contested by the appeal, but it must always, ex officio, examine whether: there was a violation of the provisions of the criminal proceedings which concern the court's composition and competence; there was a violation of prohibition against the use of evidence collected in a unlawful manner; the indictment had been exceeded; the announcement of the verdict was contradictory or not understandable, or if the verdict was without merits or if its grounds were unclear and contradictory, and whether the main hearing was held in the absence of the accused in contradiction to the stipulation of the law and, in the case of compulsory defence also in the absence of the defence counsel of the accused. The appellate court must also, ex officio, examine whether the criminal procedure has been breached to the detriment of the accused.

331. If an appeal has been lodged only in favour of the accused, the verdict may not be amended to his detriment in relation to the legal assessment of the crime and of the criminal sanction. If the appellate court determines on the occasion of the appeal that the reasons because of which it adopted a decision in favour of the accused are also favourable for a co-accused who has not lodged an appeal or who has not lodged it in that direction, it shall act ex officio as if the appeal had been lodged.

332. The appellate court may adopt the following decisions on the appeal: reject the appeal as belated or not allowed; refuse the appeal as being without merits and confirm the verdict of the court of original jurisdiction (when it determines that there are no reasons to refute the verdict, nor any violations of the law); accept the appeal, revoke the verdict of original jurisdiction and return the case for retrial, if it determines there was an essential violation of the criminal proceedings or if it considers that because of a wrongly or incompletely determined factual situation it should order a new main hearing before the court of original jurisdiction; accept the appeal and alter the verdict of original jurisdiction if it determines that the conclusive facts in the proceedings of original jurisdiction were properly determined and that, considering the determined factual situation, a different verdict should be reached by properly applying the law.

333. The Criminal Procedure Code permits the right to appeal also against the verdict of the appellate court but only in a limited number of cases, namely: (a) if the appellate court pronounced a sentence of life imprisonment or if it confirmed the verdict of the court of original jurisdiction with which this punishment was pronounced; (b) if based on the hearing, the appellate court determined the factual situation differently than the court of original jurisdiction and it based its verdict upon that factual situation; (c) if the appellate court altered the verdict of the court of original jurisdiction with which the accused was acquitted of the indictment and pronounced a verdict declaring the accused to be guilty. The appeal against the appellate verdict is decided by the court of third instance, at a session of the chamber, in accordance with the provisions that are valid for the appellate proceedings. The only exception is that the third instance court may not hold a hearing.

The right to compensation for unjustified verdict

334. Just like the right to compensation for unlawful deprivation of liberty, the right to compensation for an unjustified conviction is a constitutionally guaranteed right. According to article 13, paragraph 2, of the Constitution of the Republic of Macedonia, a person unlawfully deprived of liberty, the unlawfully detained or unlawfully convicted person, has the right to compensation for damages and other rights determined by law. The constitutional provision is further defined in the Criminal Procedure Code, according to which a person unlawfully deprived of liberty, unlawfully detained or unlawfully convicted has the right to compensation of damages from the budget funds, has the right to be rehabilitated, as well as other rights determined by law. According to article 526 of the Code, the right to compensation for an unjustified conviction pertains to a person against whom a criminal sanction was pronounced and came into effect, or who was pronounced to be guilty but was not exempt from punishment and later, on the occasion of an extraordinary legal remedy, the proceedings were stopped and became final, or who was acquitted of the indictment with a verdict that has become effective, or the indictment was rejected. The right to compensation for damages pertains also to a person who served a punishment of deprivation of liberty and, on the occasion of extraordinary legal remedies, has been sentenced to a punishment of deprivation of liberty with a shorter duration than the sentence he has served, or he has been sentenced to a criminal sanction which does not consist of deprivation of liberty, or who has been pronounced to be guilty but has been acquitted of the punishment. The

convicted person does not have the right to compensation for damages if, by his own false confession or in some other manner, has intentionally caused his conviction, except if he has been forced to this.

335. The compensation for damages for an unjustified conviction is realized through the same proceedings as compensation for unlawful deprivation of liberty. (For the procedure and the extent of the compensation for damages, see article 9 of this report.)

336. According to the data of the Ministry of Justice, a total of 10 requests for compensation for damages for an unjustified conviction and unfounded deprivation of liberty were submitted to the Ministry in 1996; of these 2 were rejected 1 was decided with a partial settlement, and 7 were referred to a private lawsuit to realize their right to compensation. During the first 6 months of 1997, 15 requests were submitted, of which 3 were refused and 12 were referred to a private lawsuit.

337. In practice, the most frequent requests for compensation are for loss or reduction of salary, compensation for not receiving a professional promotion which would have taken effect during the time the person was serving a sentence, compensation for unused vacation, compensation for health damage caused by serving the sentence, compensation for loss of the right to health care, compensation for interrupted education, compensation for the expenses of the initial criminal proceedings, etc.

338. According to article 532 of the Criminal Procedure Code, the court of original jurisdiction passes a ruling ex officio annulling the entry in the penal records of the unjustified conviction. No information from the penal records may be issued to anybody regarding the annulled entry.

Prohibition of retrial for the same criminal offence (ne bis in idem)

339. This prohibition is contained in article 14, paragraph 2, of the Constitution of the Republic of Macedonia which prescribes that no person may be tried in a court of law for an offence for which he has already been convicted and for which a legal valid court verdict has already been brought. An identical formulation is contained in article 5 of the Criminal Procedure Code. The right to criminal prosecution, therefore, is implemented with the final completion of the criminal proceedings for a specific criminal offence against a specific person, i.e. when the ruling for termination of the proceedings or verdict may not be refuted any more with a regular legal remedy. This rule is a procedural obstacle for any new proceedings for the same offence. Repetition of criminal proceedings may be possible because of a new factual situation and are considered new proceedings.

340. The rule ne bis in idem is not valid if the proceedings were terminated because of some procedural obstacle and if this obstacle is later eliminated (for example, offender, after committing the criminal offence, fell ill. with a permanent mental disease). According to the Law on Minor Offences, when an accused is finally declared guilty in criminal proceedings of an offence that also covers a minor offence, the proceedings for the minor offence shall be terminated with a verdict.

Article 15. Prohibition of retroactive effect of the Criminal Code

341. Article 15 of the Covenant stipulates the two basic principles of the criminal law: the principle of legality and the principle derived from it, prohibition of retroactive effect of the penal law. The basic consequences of the application of these principles is as follows. First, no one may be punished for an offence which was not clearly defined as a punishable offence at the time it was committed. Second, the perpetrator of a punishable offence may not be sentenced to heavier punishment than the punishment that was prescribed for that offence at the time it was committed.

342. In the legal system of the Republic of Macedonia the principle of legality is raised to the rank of constitutional principle. According to article 14, paragraph 1, of the Constitution, no person may be punished for an offence that has not been declared an offence punishable by law or by other acts, prior to its being committed, and for which no punishment has been prescribed. A slightly more precise formulation of the principle of legality in determining criminal offences and in prescribing criminal sanctions is contained in article 1 of the Criminal Code according to which nobody can be sentenced to a punishment or some other penal sanction for an act which before it was committed was not determined by the law to be a crime and for which no punishment was prescribed by law.

343. In criminal law, as well as in other legal branches, this principle is based on the rule of law, in contrast to arbitrariness, and its direct goal is preventing the abuse of power in the application of coercion by means of criminal sanctions. Raised to the level of a constitutional principle, this does not imply only protection of the individual accused of a punishable offence against the arbitrariness of the judicial organs, but also a general protection mechanism against arbitrariness by all State organs.

344. One of the most significant legal consequences of the principle of legality is the prohibition of retroactive effect of the law with which punishable offences are determined and which prescribes the punishments for them. The Constitution of the Republic of Macedonia, in article 52, paragraph 4, clearly stipulates that laws and other regulations may not have a retroactive effect, except in cases when this is more favourable for the citizens. Article 3 of the Criminal Code states that the law that was applicable at the time when a crime was committed shall be applied upon the person who has committed the crime. If the law has changed once or several times after the crime was committed, that law shall be applied which is more lenient towards the offender.

345. It should be mentioned that the criteria according to which the strictness of the law would be assessed, in view of the leniency of laws enacted later, has not been defined normatively either in the Constitution or in the Criminal Code, but rather they have been left to be resolved within the framework of the court practice for every specific case. In the court practice in the Republic of Macedonia the principle has been adopted that the more lenient law is the one which, taken as a whole, brings about a more favourable outcome for the offender in the specific case. A simple comparison of the texts of the old and the new law in relation to the specific conduct of an individual is not sufficient because this only indicates which of them is

more lenient towards the offender in only one case: when the new law decriminalizes an activity that the old law treated as a criminal offence. In any other case (when an activity is foreseen as a criminal offence according to both laws), the answer to the question which law is more lenient for the perpetrator is derived in a manner such that one of the laws is first applied in full to the specific case, and then the other law (having in mind all provisions of the general and special parts), and at the end to compare the outcomes and see which has led to a more favourable outcome for the offender. This is derived from the formulation of the law itself which does not say that the more lenient law shall be applied, but explicitly foresees the application of the law that is more lenient towards the offender.

346. Here we must also mention the formulation used in article 15 of the Covenant and the one used in article 3 of the Criminal Code. In accordance with the Covenant, a heavier punishment may not be pronounced than the one that was foreseen at the time the criminal offence was perpetrated, which leads to the conclusion that the retroactive effect of a criminal law, a law that has come into effect after the perpetration of the offence, is allowed only if its application leads to the pronouncement of a more lenient punishment than the one which could be pronounced by applying the law that was valid at the time the offence was committed. According to article 3 of the Criminal Code, if there were changes in the Criminal Code after the perpetration of the criminal offence, the law that is more lenient towards the offender shall be applied. Even though the Covenant conditions the retroactive application of the Criminal Code with circumstances that are linked only to the graveness of the pronounced sentence, in contrast to the wider approach of the Criminal Code, in essence both formulations express a single principle: with the application of a law which is passed after the perpetration of a criminal offence, the offender may not be placed in a more unfavourable position than the one in which he would be placed with application of the law that was valid at the time the crime was perpetrated. In the court practice, the position dominates that the new or the old law must be applied in full and that no combination of provisions of the new and from the old law is allowed, because this would mean creating and applying a law that never existed. Also, the position dominates that the more lenient law must be applied throughout the regular criminal proceedings: if, for example, the Criminal Code is changed during the appeal proceedings the more lenient law shall be applied, because the proceedings on regular legal remedies are an integral part of the criminal proceedings upon the conclusion of which a final court decision is passed. This position is supported even more if one bears in mind that in regular legal remedies, the higher court investigates not only the legality of the verdict of original jurisdiction, but also its grounds, from the aspect of the determined factual situation, and the decision of the court regarding the punishment. It can be therefore concluded that the more lenient law must always be applied if the criminal law was changed after the commission of the criminal offence, if the offender had not yet received the final court's verdict.

347. A change of the Criminal Code has no influence upon final verdicts unless the law itself foresees differently. Even though it is more lenient, the new law is also not applied in the proceedings for extraordinary reduction of the punishment because the punishment may be reduced only within the limits and according to the rules of the law according to which it was passed.

348. With regard to the application of the principle of legality, it should be stressed that court practice does not have examples of violations of this principle. The reason for this is the fact that not only is this principle sufficiently well known, but it is also firmly rooted in the minds of the courts, Public Prosecutor's offices, organs of internal affairs and other organs that apply the criminal legislation.

Article 16. The right to recognition as a person before the law

349. Legal capacity - the capacity to be a holder of rights and obligations in the legal exchange - is recognized by the legislation of the Republic of Macedonia as applying to every physical person. It is attained by birth and lost by death, or by declaring a disappeared person to be dead. There is one exception to this: in the Law on Inheritance, an heir must be a person who is alive at the moment of the inheritance. Article 122, paragraph 2, of the Law states that if the heir has already been conceived at the moment of the heritage, it is considered to be born and if it is born alive, its inheritance rights are maintained.

350. Legal capacity lasts during the life of the physical person and ceases with his death or with declaring a disappeared person to be dead. the Law on Out-of-Court Proceedings foresees four cases where a disappeared person may be declared to be dead. According to article 81 of the Law, the court shall declare dead: (a) a person concerning whom there has been no news during the last five years, and who is at least 60 years old; (b) a person concerning whom there has been no news, and who is believed dead; (c) a person who disappeared in a shipwreck, traffic accident, fire, flood, earthquake or some other direct deadly danger and concerning whom there has been no news for at least six months from the day the danger ceased; and (e) a person who disappeared during a military situation and concerning whom there has been no news for one year from the date when hostilities ceased.

351. The declaration of the disappeared person as dead may be proposed by any person who has a legal interest in this, as well as by the Public Prosecutor. The proposal is decided by the competent basic court with a ruling in which the day is specified which is considered to be the day of the death of the disappeared person. The declaration of death, after it becomes effective, is entered in the official register of the dead. With this, a refutable legal assumption is created about the persons death. This assumption may be refuted by the person himself, if he is alive, or by some other person who has a legal interest to prove that the person's death was at a different time and not at the one determined by the ruling. In such a case the ruling may be revoked or amended. An appeal is allowed against the ruling by which the disappeared person is declared dead as well as against the ruling by which that ruling was revoked or amended.

352. A composite element of legal capacity is civil capacity, i.e. the capacity of the physical person to enter into legal relations with other persons independently, through his own actions. Civil capacity, according to the legislation of the Republic of Macedonia, is attained with coming of age. According to the Law on the Family, majority is attained at 18 years. As an

exception, civil capacity may be attained by concluding marriage after reaching 16 years of age. A person also attains civil capacity after reaching 15 years of age in case of employment.

353. Juveniles up to 15 years of age are completely without civil capacity and all matters are undertaken by their parents or guardian, in their name and for their account. Juveniles from 15 to 18 (older juveniles) have limited civil capacity. Persons with limited civil capacity may conclude without permission of their legal representatives only those agreements which they are allowed by law to conclude (article 56, paragraph 2, of the Law on Obligation Relations). They may independently conclude all legal matters with which they dispose of their earnings. They may conclude other legal matters only with the approval of their legal representatives. An exception to this rule is the making of a will, which the juvenile may legally do at the age of 15 on the condition that he is capable of reasoning (Law on Inheritance, art. 62). Besides age, mental health is a condition for the person to have full civil capacity. Persons of legal age who, because of a mental illness, cannot look after themselves and their rights and interests may be fully deprived of civil capacity (and in this case they are made equal to younger juveniles), or this capacity can be restricted, in which case they are made equal to older juveniles.

354. The taking away or restriction of the civil capacity is decided by the court in an out-of-court proceeding which is regulated by the Law on Out-of-Court Proceedings. The court decides about full or partial deprivation of civil capacity of a person who, because of mental illness, mental retardation, consumption of alcohol or other nerve poisons, is not able to take care of himself and protect his rights and interests. The proceedings for deprivation of civil capacity are urgent. The court shall interrogate the person concerned, if this is possible and if it is not harmful for his health. The court is also obliged to hear persons who may offer information on the life and conduct of the person. He must be examined by two physicians, one of which must be a specialist in nervous and mental illnesses. The court may order the person to be committed to a mental health institution for up to three months, if this is necessary to determine his mental state, except in cases when harmful consequences to his health would arise because of such detention. After the proceedings are conducted, the court decides whether it shall deprive the person fully or partially of his civil capacity. An appeal to a higher court is allowed against the ruling for deprivation of civil capacity, as well as against the ruling for placement in a mental health institution.

Article 17. The right to respect of privacy, family, home and correspondence, and protection of honour and reputation

355. In the legal system of the Republic of Macedonia, the rights guaranteed by this article of the Covenant are contained in several provisions of the Constitution of the Republic of Macedonia and in several laws. According to article 25 of the Constitution: "each citizen is guaranteed the respect and protection of the privacy of his personal and family life and his dignity and reputation". Article 26 of the Constitution guarantees the inviolability of the home and determines the conditions under which this right may be

restricted: "The inviolability of the home is guaranteed. The right to inviolability of the home may be restricted only by a court decision in cases of detection or prevention of criminal offences or protection of people's health". In article 17 of the Constitution, the freedom and confidentiality of correspondence and other forms of communication is guaranteed. Only a court decision may authorize violation of the confidentiality of correspondence and other forms of communication in cases where this is indispensable to a criminal investigation or required in the interest of the defence of the Republic. According to article 18, "security and confidentiality of personal information are guaranteed. Citizens are guaranteed protection from any violation of their personal integrity deriving from the registration of personal information through data processing". The protection of the family is guaranteed by article 40 which foresees: "The Republic provides particular care and protection for the family. The legal relations in marriage, the family and cohabitation are regulated by law". According to article 41 of the Constitution: "It is a human right freely to decide on the procreation of children. The Republic conducts a humane population policy in order to provide balanced economic and social development".

356. The essence of the right to privacy, which as a generic notion covers several rights, consists of the freedom of each individual to decide independently about issues that fall within the domain of his personal and family life, without any form of interference by other persons or by the public authorities. However, since people live in society, the right to privacy is not an absolute one. Article 17 of the Covenant does not foresee possible cases of interference in the privacy of the individual, guaranteeing only protection against arbitrary or unlawful interference in the individual's privacy. This means that any interference in the exercise of the right to privacy must be foreseen by a law that shall clearly determine the conditions and purposes under which, or for which, such interference is allowed.

Search of a home

357. In the privacy of the individual the home has a special and important place and it represents an important aspect of personal liberty. In this context, article 26 of the Constitution guarantees the inviolability of the home, which may be restricted for the purposes of detection or prevention of criminal offences or protection of people's health. The conditions under which the search of a home and a person may be undertaken and under which such an investigative activity may be justified by law are set forth in the Criminal Procedure Code. Article 198, paragraph 1, foresees that the search of the home and other premises of the accused or other person may be undertaken if it is probable that with the search, the accused shall be caught or evidence of the criminal offence or objects important for the criminal proceedings shall be found.

358. Every disturbance of the privacy of the home without a warrant is in principle unjustified and unconstitutional, because of which article 26, paragraph 2, of the Constitution stipulates that the search must be ordered by the court. According to article 199 of the Criminal Procedure Code, the search must be ordered by the court, by a written decision containing the specification of the place and the person to be searched, as well as the

objects needed or to be seized. The only exception to the general principle of judicial control over the entry to a home is possible under article 202 of the Criminal Procedure Code, according to which authorized officials of the Ministry of Internal Affairs may enter the home and other premises even without a search warrant, if the person who by court order needs to be detained or brought in by force is found there.

359. The Criminal Procedure Code regulates precisely the procedure for searching the home. According to article 199, paragraph 2, before starting a search of the home, the official is obliged to hand over the search warrant to the inhabitant where the search shall be conducted, as well as to ask him to voluntarily hand over the person or the objects that are sought. These requirements may be waived if armed resistance is expected or if it is necessary to do a sudden search when there is a suspicion that a serious criminal offence has been perpetrated by a group or an organization, or if the search needs to be conducted on public premises. As a rule, the search is done by day, however it may continue at night if it was started by day and was not completed. As an exception, the search may be done by night if there is danger in delay. During the search of a home, two adult citizens must be present as witnesses. Before starting the search the witnesses shall be warned to pay attention to how the search is conducted, and advised that they have the right to state their complaints before signing the minutes of the search if they consider that they are incorrect. The search may be conducted also without the presence of witnesses if it is not possible to provide their presence immediately and there is danger in delay, but the reasons for this must be specified in the minutes. The search of the home should be conducted carefully, without disturbing the order of the house. During the search the police may seize temporarily only those objects and documents which are relevant for the purpose of the search in the specific case (art. 200, para. 8), as well as objects that have no connection to the criminal offence because of which the search was ordered but which are evidence of some other criminal offence that may be prosecuted ex officio, and a certificate shall be issued immediately about the seizure of those objects.

360. Article 188 of the Law on the Execution of Sanctions foresees the possibility for a member of the security service to enter the home of a citizen or other premises with a court order and to conduct a search for the purpose of finding an escaped convict, if he has seen or received information that the escaped person is sheltered in that home or premises.

Search of a person

361. In parallel to the search of the home, the Criminal Procedure Code contains provisions regulating the search of a person for the purposes of criminal proceedings. Article 198, paragraph 2 foresees that a search of a person may be undertaken when it is likely that evidence or objects important for the criminal proceedings could be found. Article 199, paragraph 1, gives a guarantee against arbitrary search by stipulating that only the court may order a search of a person.

362. Also, in cases of a search of a person without a court order, the guarantees are sufficiently strong that the search will not go beyond the conditions that make it justifiable by the law. Those conditions are:

execution of an order for arrest or deprivation of liberty or, if there is suspicion that the person will throw away, hide or destroy the objects to be seized from him as evidence in the criminal proceedings (art. 202, para. 2 of the Criminal Procedure Code). Also, in the case of search of a person, the law foresees the compulsory presence of two adult citizens as witnesses. Only a female person conducts the search of a female person, and witnesses may only be female persons (art. 200, para. 3). Additional protection against possible breach of privacy of the home or person during search is provided in article 201, which foresees the obligation to prepare minutes of each search of a home or a person, thus enabling control of the legality in the behaviour of the police officer who conducts the search. The objects and documents that are taken away shall be precisely entered into the minutes. 10/ Considering that a body search is also an interference in the private domain of the individual, the Criminal Procedure Code stipulates in article 251 that a body search of the accused shall be conducted even without his consent if this is necessary to determine facts of importance to the criminal proceedings. A body search of other persons may be undertaken without their consent only if it must be certified whether there is a trace or consequence of a criminal offence upon their body. Taking a blood sample and other medical actions undertaken according to the rules of medical science for analyses and determining other facts of importance to the criminal proceedings may be performed even without the consent of the person being examined, if that would not damage his health.

363. In relation to photographing and taking fingerprints from the suspect, the legislature of the Republic of Macedonia foresees that the Ministry of Internal Affairs may photograph the person who it is reasonably believed may have committed a criminal offence, and his fingerprints may also be taken. When this is necessary for determination of identity, or otherwise in the interests of a successful conduct of the proceedings, the Ministry of Internal Affairs may publish a photograph of that person, with court approval (art. 143, para. 2). In regard to other persons, the law foresees that officials of the Ministry of Internal Affairs may take fingerprints of persons who it is reasonably believed could have been in touch with certain objects (art. 143, para. 3). Besides these provisions of the Criminal Procedure Code, article 32 of the Law on Internal Affairs also foresees that authorized officials of the Ministry of Internal Affairs, when required for reasons of security of the Republic to discover and catch a perpetrator of a criminal offence or a minor offence, to protect the life, personal security and property of a citizen, to maintain the public peace and order, security in road traffic or during an inspection at the State border, may conduct a search of vehicles, persons and luggage, and direct movement in a specific area as long as the need for this exists.

364. The unauthorized entry into someone else's home, as well as conducting a search of a person or a home in contravention of the law, represents a criminal offence in accordance with articles 145 and 146 of the Criminal Code where the offences of violation of the inviolability of the home and unlawful search are foreseen.

365. Respect for and protection of privacy and family life mean that interference by anyone (individual, group, State organ) in family relations - between spouses, between parents and children, the family life style, and the

domestic family order - is prohibited, except when the exercise of these relations violates the norms of society. Public presentation of events and situations in the family life is also prohibited. For these reasons the legislator has foreseen in article 174 the criminal offence of exposing personal or family circumstances. The family and family relations are regulated by the Law on the Family which defines the family as a community of parents and children and other relatives who live in a common household, and it determines the principles on which family relations are founded (equality, mutual respect, mutual assistance and sustenance and protection of the interests of minor children).

Correspondence and personal data

366. The Constitution of the Republic of Macedonia has two provisions that guarantee the privacy of correspondence and the security and confidentiality of personal data. Article 17 guarantees the freedom and confidentiality of correspondence and all other forms of communication, and the conditions under which and the reasons for the non-applicability of the principle of inviolability. Article 18 guarantees the security and confidentiality of personal data and protects citizens against violation of their personal integrity by registration of information about them. According to article 17, paragraph 2, of the Constitution, the principle of confidentiality of correspondence may be diverted only on the basis of a court decision, if this is necessary for conducting a criminal proceeding or if the interests of the Republic so require.

367. Article 195 of the Criminal Procedure Code foresees that the correspondence of a detainee with persons outside the prison is subject to the knowledge and supervision of the investigating judge, who may prohibit the sending and receiving of letters and parcels that could negatively influence the conduct of criminal proceedings. Apart from that, article 206 foresees that the investigating judge may order legal entities in the field of post, telegraph and other traffic to withhold and to hand over to him, with a receipt, the letters, telegrams and parcels directed to or sent by the accused if there are reasonable grounds to believe that those parcels would serve as evidence in the proceedings. The letters and parcels are opened by the investigating judge in the presence of two witnesses, and minutes are written on this. If the interests of the proceedings permit, the contents of the mail may be announced fully or in part to the accused, or to the person it is sent to, and the mail may be handed over.

368. According to article 140 of the Law on the Execution of Sanctions, the correspondence of convicts serving their sentence in a closed-type institute or in a closed section of a prison is conducted under the supervision of the prison management. 11/ The director of the institution shall prevent delivery of a letter if this is necessary for the protection of the person of the convict or for the security of the institution. Detailed rules on exercising the right to correspondence, as well as on the control of correspondence, are contained in the house rules of the institution. According to article 141 of the Law on the Execution of Sanctions, the prisoner is allowed to make telephone calls. Telephone conversations in closed-type institutions and in closed sections are conducted in the presence of an official person.

369. Article 147 of the Criminal Code foresees the criminal offence of violation of confidentiality of letters and parcels. Besides this, the Criminal Code criminalizes in article 151 unauthorized tapping and audio recording, and in article 152 the criminal offence of unauthorized recording. The security and confidentiality of personal data guaranteed by article 18 of the Constitution is reflected in the Law on Personal Data Protection. According to article 2 of this law, the protection of personal data consists of legal, organizational and technological procedures and measures that prevent unlawful collection, processing, storage, usage and transmission of data; unlawful access to data or equipment where data are kept; accidental or intentional modification or destruction of data; and unlawful removal or transfer of data from the Republic of Macedonia. According to article 4 of this law, personal data may be collected, processed, stored, used, or delivered only for purposes determined by law or for purposes derived from the person's written consent. The storage and usage of personal data cease when the purpose for which they were collected, processed or stored or after expiration of the legal deadline for which the measure was established ceases, and thereafter the personal data are erased (article 10 of the Law on Personal Data Protection). Data may be delivered only to a person authorized by law and with the written consent of the person concerned or his authorized representative. The user of the data may use them only in a manner that conforms to law.

370. The Law foresees protection of the person the data relate to. According to article 17 of the Law, the person has the right to demand to review the data that refer to him, as well as to demand correction or deletion of data which he shall prove to be incomplete, incorrect or out of date. If the data were collected on the basis of a written approval, the person has the right at any moment to withdraw the approval and to demand that data that refer to him be deleted from the database within 15 days. According to article 21, the rights of the person in connection with personal data may be restricted only as an exception, in cases determined by law and to an extent which is necessary for implementation of security and defence of the Republic of Macedonia, for conducting a criminal proceeding, to protect the economic interests of the Republic of Macedonia, the health and life of the people, or the environment. In article 22 the Law foresees judicial protection for the rights of an individual and if the person suffers damages because data were used in a manner and for purposes contrary to the law, then he has the right to compensation. Besides this, the Criminal Code foresees criminal protection by sanctioning the criminal offence of misuse of personal data (art. 149).

Protection of honour and reputation

371. Honour and reputation belong to the group of the most significant assets of the individual in the legislation of the Republic of Macedonia and they are protected within the framework of the criminal law. The Criminal Code, in the chapter devoted to criminal offences against honour and reputation, has foreseen the following offences: defamation (art. 172); insult (art. 173); exposing personal or family circumstances (art. 174); and slight with reproach about a crime (art. 175). The offences of defamation and insult have the nature of basic offences, while the exposure of personal and family circumstances and reproach for a crime are special cases of the offences of defamation and insult: the first offence is a so-called indiscretion offence

directed towards protection of the intimate domain of the individual and his personal or family life, while the sense of the second is to protect the honour and reputation of convicted persons, or a person who has committed a criminal offence. A criminal offence, or the conviction for a criminal offence, as much as it negatively reflects upon the integrity of an individual (the perpetrator of the offence), is, for the criminal law of the Republic of Macedonia, not a reason for his total excommunication from society. A conviction for a criminal offence is a conviction for a specific action of an individual and not of his personality as a whole. Therefore, the fact that a person is a perpetrator of whatever kind of criminal offence may not be used (unpunished) to slighting the person of the offender. A common characteristic of the crimes against honour and reputation is that the prosecution is undertaken by private suit. Besides the basic form of the crimes, the law also sanctions more severe forms of these crimes - public defamation or insult, as well as defamation or insult with severe consequences for the injured person - while it gives privileged treatment to provocation and retaliation allowing the possibility for a court reprimand.

372. The Criminal Code in article 185 foresees if defamatory statements are made by the media in a criminal case, the court shall decide, upon request of the prosecutor, that the court verdict or an excerpt from it must be published in order to deny the defaming statement in the same manner it was made. The goal of the publication is to stress the true facts by which the honour and reputation of the injured party are repaired.

373. In cases of violation of honour and reputation the legislation of the Republic of Macedonia has also foreseen civil protection, which is implemented through the provisions for compensation for damages contained in the Law on Obligation Relations. According to article 198 of this law, a person who violates the honour of another, as well as a person who expresses or spreads false assertions about the past, the knowledge or the capabilities of another and who knows or should know that they are false, and thereby causes material damages, is liable to pay compensation. Also, in regard to mental suffering because of violation of honour and reputation or of the rights and freedoms of the individual, if the court finds that the circumstances of the case, and especially the intensity and duration of the suffering, it shall adjudicate a fair financial compensation, regardless of the compensation for material damages, as well as in their absence. The Law on Obligation Relations in article 202 foresees fair financial compensation for mental suffering awarded to a person who by means of deceit, coercion or abuse of some relationship of subordination or dependence was induced to punishable intercourse or to a punishable promiscuous act, as well as to a person against whom some other criminal offence against dignity of the person and morals was committed.

Article 18. The right to freedom of thought, conscience and religion

374. According to the Constitution of the Republic of Macedonia citizens are equal in rights and freedoms regardless of sex, race, colour of skin, national and social origin, political and religious beliefs, property and social status.

375. Article 16, paragraph 1, guarantees, in the most general manner, the freedom of personal conviction, conscience, thought and public expression of

thought. According to article 19, the freedom of religious confession is guaranteed. The right to express one's faith freely and publicly, individually or with others is also guaranteed. The Macedonian Orthodox church and other religious communities and groups are separate from the State and equal before the law. The Macedonian Orthodox Church and other religious communities and groups are free to establish schools and other social and charitable institutions, by way of a procedure regulated by law.

376. This constitutional provision clearly implies, first, separation of the religious communities from the State and, second, the impossibility for the existence of a "State" religion that would be privileged.

377. The right to freedom of conscience, thought, public expression of thought and religious confession, together with some other rights, may not, according to article 54 of the Constitution, be restricted. Also, these rights enjoy direct constitutional protection based on article 110, paragraph 1 (3), of the Constitution which determines the competence of the Constitutional Court which, inter alia, protects the freedoms and rights of the individual and citizen relating to the freedom of conviction, conscience, thought and public expression of thought.

378. Closely related to the implementation of the freedom of conscience is the right to conscientious objection. In the Law on Defence alternative military service is allowed in the form of unarmed service on religious grounds. In that case, the duration of military service lasts 14 months, instead of 9. In the period 1993-1997 there were no cases of conscientious objectors in the Army of the Republic of Macedonia, i.e. no persons who refused to accept and bear arms because of religious conviction were registered.

379. The constitutional provisions which guarantee the freedom of religious confession and the status of religious communities and religious groups are elaborated in the Law on Religious Communities and Religious Groups. In accordance with article 2 of this law, religious communities and religious groups are free to carry out religious duties and rituals. The Law contains an explicit prohibition on forcing or hindering a citizen in any way to become or be a member of a religious community or group. Furthermore, it is forbidden to force a citizen to participate or not to participate in religious rituals and other kinds of expression of religion. The violation of these prohibitive norms entails criminal responsibility. In the Criminal Code there is a stipulation according to which a person who on the grounds of a difference in sex, race, colour of skin, national and social origin, political and religious conviction, property and social status, language or similar shall deprive or restrict the rights of an individual and citizen determined by the Constitution, the law, or ratified international agreement, shall be punished with imprisonment of three months to three years. The penalty for these crimes committed by an official person is higher and amounts to six months to five years.

380. A citizen may not be denied rights that he has according to the Constitution and the law because of religious convictions, belonging to a religious community or religious group, performing and participation in the performing of religious rituals and other kinds of religious expression. On

the other hand, the expression of religion or belonging to a religious community or religious group, does not exempt the citizen from the obligations he has as a citizen according to the Constitution, the laws and other regulations. Also, a foreign citizen has the right to carry out religious duties and rituals upon approval from the organ responsible for issues concerning religious communities and religious groups.

381. The Law on Religious Communities and Religious Groups regulates the status of religious communities and religious groups. In the Republic of Macedonia religious duties and religious rituals may be performed only by a registered religious community or religious group. Religious communities and religious groups are free to carry out religious duties and rituals. According to this law, a religious community is defined as a voluntary, non-profit community of believers of the same religion. Each religion may have only one religious community. A religious group is defined as a voluntary, non-profit association of believers with the same religious conviction who do not belong to a registered religious community.

382. A religious group may be founded by at least 50 adults, citizens of the Republic of Macedonia with permanent residence in the Republic of Macedonia. The founders of the religious group appoint a person who shall submit an application to the Commission for Relations with Religious Communities, the organ responsible for issues of religious communities and religious groups, within 30 days after the decision on foundation is passed. A religious group founded in conformity with the Law is entered into the register maintained by the Commission. The decisions of the organs of religious communities or religious groups are not effective outside of them. The documents of the religious communities or religious groups, are not public documents.

383. In the Republic of Macedonia, there are 18 religious communities and religious groups, through which the right to religion is exercised by Orthodox, Muslim, Catholic, Jewish, Protestant and other believers. During the period of 1993 to June 1997, a total of 14 applications were submitted in Skopje for the registration of religious communities, of which 6 were approved and 6 were refused because they did not meet the condition of the Law on the legal position of religious communities and religious groups. In conformity with legal regulations, a party is always given a right to appeal. During this period, five religious communities lodged appeals and these were refused.

384. In conformity with the Law, religious communities or religious groups may use the public media and printed matter within the framework of their operations.

385. Religious rituals and duties are performed in churches, mosques and other temples, in their yards, at the cemetery, as well as in other premises of the religious community or religious group. They may not disturb public peace and order, as well as the religious feelings and other rights and freedoms of the citizens who are not members of that religious community or religious group. Religious rituals and duties may also be performed in other premises and places with the approval of the competent organs, which are obliged to notify the applicant within seven days before the day of the planned religious ritual. In the Republic of Macedonia there are around 2,030 religious facilities of which: 1,550 belong to the Macedonian Orthodox

Church, 450 to the Muslim community, 15 to the Catholic Church and 15 to the Protestant Church. However, no special approval is required for religious rituals taking place in a citizen's dwelling (family saint's day, marriage, christening, etc.). Persons in hospitals, old age homes or similar institutions may perform the expression of their religion and may be visited by priests to perform a religious ritual, in conformity with the house rules of the institutions where they are accommodated.

386. In relation to meeting the religious needs of convicts, there is a stipulation in the Law on the Execution of Sanctions which permits convicted persons to satisfy their religious feelings and needs in conformity with the conditions and possibilities of the institution.

387. Unlawful prevention of the performance of a religious ritual is punishable, according to the Criminal Code, with a fine or with a prison sentence of up to one year.

388. Religious rituals, the religious press, religious instruction, religious schools and other types of religious expression may not be used for political purposes, for instigating religious, national or other intolerance and for other activities prohibited by law. The holding of religious gatherings and visits to religious sites, according to article 21 of the Law on Religious Communities and Religious Groups, may be prohibited by an organ of internal affairs in order to protect the health of citizens, the public peace and order, and security of property.

389. The constitutionally guaranteed right of citizens to establish private educational institutions at all levels of education, except in primary education (art. 45), is reflected in the Law on Religious Communities and Religious Groups. Religious communities and religious groups have the right to establish religious schools, as well as student dormitories, at all levels of education, except in primary education. For their establishment previous approval is needed from the competent organ. Religious schools may be attended by persons who have completed compulsory primary education or by persons whose obligations to compulsory primary education have ceased. The instruction in a religious school may be performed only by citizens of the Republic of Macedonia. Exceptionally, the instruction may be performed occasionally by a foreign citizen, with approval of the competent organ.

390. A juvenile may attend religious instruction with the approval of a parent or guardian, as well as his own if he is older than 10. In accordance with article 19, paragraphs 3 and 4, of the Constitution, the Church or religious confession is separate from the State and is a private matter of each individual or religious community. Within this framework, the establishment of religious schools in accordance with the law is in principle free, but they may serve only the needs of the relevant religious groups and fall outside the public education system. In this sense, the right to education guaranteed by article 44 of the Constitution 12/ relates only to the public education system and does not cover religious instruction, nor schools for the education of priests. Therefore, the right of parents to provide an education for their children in conformity with their religious and philosophical convictions is met only by the "negative" obligation of the State not to hinder the religious education of children, and especially not to

discriminate against religious groups in their efforts to provide supplementary religious instruction for their children, and not by a "positive" obligation of the State to include religious instruction within the framework of the public education system or to provide material conditions and facilities for such instruction. For these reasons, the Republic of Macedonia has placed a reservation on the right guaranteed by article 2 of Protocol No. 1 to the European Convention on Human Rights. 13/

391. In the Republic of Macedonia, of the existing religious communities the following have educational institutions: the Macedonian Orthodox Church, the Muslim community and the Ordinate of the Skopje-Prizren Bishopric.

392. In the Republic of Macedonia fair relations and cooperation have been established between the religious communities. This is due to the fact that they have a long tradition of mutual respect and freedom.

Article 19. Freedom of expression

393. The Constitution of the Republic of Macedonia, in article 16, guarantees the right to free expression as a complex right consisting of the following components: the freedom to personal conviction, conscience, thought and public expression of thought (para. 1); the freedom of speech, public address, public information and the establishment of institutions for public information (para. 2); free access to information and the freedom to receive and transmit information (para. 3); the right of reply via the mass media (para. 4); the right to a correction in the mass media (para. 5); the right to protect a source of information in the mass media (para. 6). In addition to this, paragraph 7 of article 16 prohibits censorship.

394. The right of thought is guaranteed in the Constitution of the Republic of Macedonia without any restrictions and, together with the freedom of personal conviction, conscience, public expression of thought and religion, is raised to the level of a fundamental human right which, even in exceptional circumstances (war or state of emergency), may not be restricted. Furthermore, these freedoms and rights enjoy direct constitutional protection by the Constitutional Court of the Republic of Macedonia.

395. The Criminal Code prohibits in principle any form of coercion, and therefore also coercion aimed at changing a specific position or conviction of individuals. Political or religious conviction may not be a ground for restriction or deprivation of constitutionally guaranteed rights. The violation of this prohibition is a criminal offence (art. 137 of the Criminal Code - violation of the equality of citizens, which also covers any deprivation or restriction of rights guarantee in the Constitution laws or international agreements, as well as awarding privileges on the grounds of different political or religious convictions).

396. The freedom of public expression and public information and the establishment of public information institutions is regulated by several laws, such as the Law on Broadcasting, the Law on Public Information and the Law on Telecommunications.

397. According to article 4 of the Law on Broadcasting, broadcasting provides freedom of public expression of thought, freedom of speech, public address and public information, as well as free access to information, freedom to receive and transmit information; the right to a response and the right to a correction through a broadcasting company, as well as protection of the source of information. The basic principles of broadcasting cover, among other things: truthful and timely information; openness to free competition and information on various political ideas, cultural and other tendencies and opinions; promotion of tolerance and respect and promotion of cultural diversity; independence and autonomy of the broadcasting companies, from State organs; preventing individuals and groups from exercising monopolies in broadcasting; an appropriate and unbiased treatment of political factors in the programmes of broadcasting companies, which will not serve any political party, group or rights of individuals, especially in pre-election campaigns; a prohibition against using broadcasting to incite to violent destruction of the constitutional order of the State, as well as instigating or inciting to military aggression or stirring up national, racial or religious hatred or intolerance; protection of children and youth gainst violence by not broadcasting violence and pornography at inappropriate times; protection of the privacy and dignity of individuals; equality of broadcasting companies in their access to the basic broadcasting network for transmission, broadcasting and distribution of radio and television programmes.

398. Broadcasting companies may be established as public broadcasting enterprises and as broadcasting trade companies, and may be established by legal and natural persons. A foreign legal or natural person may be a co-founder of a broadcasting trade company with up to 25 per cent of the total company capital. The assets of several foreign legal and private persons, as co-founders of a single broadcasting trade company, may amount to a maximum of 49 per cent of the total company capital. A founder or co-founder of a broadcasting company may not be a political party, a religious community or religious group, or a holder of a public office or a function in a political party. A holder of a public office or a function in a political party may not be appointed director or editor in chief of a broadcasting company.

399. Broadcasting companies perform their activities based on a concession. The conditions for allocating and revoking concessions are regulated by law.

400. The Law on Broadcasting also regulates the access by broadcasting companies to information and the protection of the source of information. According to article 64, paragraph 3, the source of broadcast information and the materials researched by the journalists are protected. The source of information may exceptionally be disclosed, but only by a court decision.

401. According to the Law on Public Information, journalists and other persons engaged in informing the public in the performance of this activity are obliged to observe the laws and principles of professional ethics and the code of conduct of journalists. An authorized person who provides a journalist with information or data is responsible for their truthfulness and completeness. A journalist who has received information from an authorized person and who has had no grounds to doubt its truthfulness is not responsible if he has published the information essentially correctly in the media, except if he is responsible for such publication according to some other law.

402. In article 34, the Law determines that the State organs and organs of local self-government, as well as their representatives, may not influence the creation of radio and television programmes, nor their operation.

403. According to the Law on Broadcasting, a citizen who is affected by a factual situation or presentation incorrectly broadcast through a radio or television programme has the right to a response. Furthermore, everyone has the right to demand the broadcasting company to broadcast a correction of information with which the dignity and reputation, as well as the rights and interests of a citizen have been violated. The citizen has this right also in the case when the information is published in the press.

404. The publication of newspapers and other printed materials and the performing of the activities of a journalist is regulated through the provisions contained in the Law on Public Information, which contains special provisions relating to the press. 14/

405. Restrictions to the right of free expression are foreseen by law and they conform to the restrictions foreseen by article 19, paragraph 3, of the Covenant. In this context, article 35 of the Law on Broadcasting foresees that programmes directed towards the violent destruction of the constitutional order of the Republic of Macedonia, instigation or incitement of military aggression, and stirring up national, racial or religious hatred and intolerance are not allowed to be broadcast. Furthermore, indecent contents and programmes may not be shown, which could have a harmful influence upon the mental, physical and moral development of children and youth.

406. Providing data for public information may be denied, according to the Law on Public Information, only on the grounds of keeping a State, military, official or business secret. In this context, it is also prohibited to distribute printed materials which or through which: (a) documents or data which represent a State, military, official or business secret are published; (b) public morals are seriously offended; (c) have a detrimental influence on the education of children and youth; (d) documents or court data are published, whose publication is harmful to the court proceedings.

407. In accordance with the principle that the implementation of the freedom of expression may not be detrimental to the rights and freedoms of other persons, the Criminal Code sanctions as criminal offences the following: defamation, insult, exposing personal or family circumstances and slight, as general criminal offences, and their specified forms, i.e. the same offences when they are committed through the public media (arts. 172-182 of the Criminal Code). However, respecting the fact that freedom of expression is a necessary aspect of human self-realization, the Criminal Code exempts from the list of sanctioned criminal offences insulting statements about a specific person within the framework of a scientific, literary or artistic piece of work; when performing an official duty, the profession of journalism or political or other social activity; in the defence of some rights or when protecting specific justified interests if, from the manner of expression or other circumstances, it can be concluded that this has not been done with the purpose of slighting.

408. Import and distribution of foreign press in the Republic of Macedonia are regulated by the Law on Import and Distribution of Foreign Mass Communication Means and on Foreign Information Activity.

409. Communication with foreign countries by using mass information and means of communication is free. However, the exchange of information between the Republic of Macedonia and other countries may be restricted in order to protect the independence, security, freedoms and rights of the individual, and public peace and order. The abuse of the freedom to public information and communication implies liability as prescribed by law.

410. According to article 6 of the Law, the import of foreign printed materials into the Republic of Macedonia is free. As an exception, in connection with the import and dissemination of foreign printed materials which by their contents are intended for citizens of the Republic of Macedonia, a permit is required which is issued by the Ministry of Internal Affairs. According to the data of the Ministry of Internal Affairs, in 1994 a total of 70 requests were submitted for import of foreign printed materials, of which 40 (104 titles) were for papers and magazines, 14 for textbooks and reference materials, 10 for religious literature and 6 for other literature (calendars, audio cassettes, etc.). In 1995, a total of 109 requests were submitted, of which 22 (96 titles) were for papers and magazines, 44 for textbooks and reference materials, 12 for religious literature (8 approved and 4 rejected) and 14 for other literature. In 1996, 164 requests were submitted, of which 45 requests (475 titles) were for papers and magazines, 75 for textbooks and reference materials, 12 for religious literature (11 approved and 1 rejected), and 33 for other literature. In 1997 (1 January-10 October), a total of 150 requests were submitted, of which 38 requests (890 titles) were for papers and magazines, 70 for textbooks and reference literature, 14 for religious literature (all were approved) and 27 for other literature.

411. Approval to import foreign printed materials into the Republic of Macedonia is issued to legal entities that are registered in the Court Register for import of foreign printed materials, upon their request. They submit for inspection a copy of the material to be imported. For import of periodicals, the approvals are issued with a validity of up to six months and for other publications (books, brochures, catalogues, etc.) with a validity of up to two months.

412. In the period from 1994 to October 1997, at the border crossings of the Republic of Macedonia officials of the Ministry of Internal Affairs seized in 37 cases printed materials from Macedonian and foreign citizens who intended to bring them into the Republic of Macedonia for distribution, without approval. Of these 24 persons lodged appeals to the Second Instance Commission for Administrative Disputes in the fields of defence, internal affairs, the judiciary and administration. Of these, 17 were rejected and 4 were accepted.

413. Unlawful prevention of printing and distribution of printed materials is sanctioned in article 154 of the Criminal Code. A person who by force or by

serious threat prevents the printing, sale and distribution of books, magazines, newspapers or other printed materials shall be punished with a fine, or with imprisonment of up to one year.

414. The Law on Public Information also regulates the position of representatives of foreign media (branch offices and permanent correspondents of foreign news agencies). It is considered that a branch office of a foreign news agency shall have been established if in the Republic of Macedonia they have at least two permanent correspondents who perform related information activity, or one permanent correspondent and at least two permanent employees. In order to perform their activity, they must be registered with the Information Secretariat. The decision on the registration of a foreign branch office or permanent foreign correspondent is issued for a period of two years with a possibility of extensions of two years at a time. In addition, foreign news agencies and foreign publications may also have temporary correspondents in the Republic of Macedonia. Foreign correspondents have the right to send information to their news agencies or periodicals from the Republic of Macedonia without any notice or approval.

415. In order to provide all the necessary conditions to the foreign journalists - correspondents who report from Skopje about everyday life in the Republic of Macedonia - the government has established an International Press Centre.

416. According to the data of the Information Secretariat, in November 1997, 44 accredited journalists were registered as permanent correspondents of foreign media in the Republic of Macedonia, based in Skopje. At the Information Secretariat there are also 20 accredited journalists based outside the Republic of Macedonia, who report continuously about events in the country.

417. For the complete and objective information of the accredited journalists, the Information Secretariat continuously delivers current information and propaganda materials (publications, books, bulletins, video cassettes, materials, etc.). The accredited journalists receive information on a daily basis about current events in the fields of politics, the economy, culture and other areas. They are also regularly invited to all press conferences, statements, briefings and other kinds of activities of a similar nature, on an equal basis with domestic journalists.

418. This whole process is rounded off by the entry of the Information Secretariat onto the Internet. On the web pages, major daily news and information are presented about current events in the Republic of Macedonia, about the work of the Government and of the ministries.

Article 20. Prohibition of propaganda for war and inciting national, racial or religious hatred

419. In the legal system of the Republic of Macedonia the prohibitions contained in this article of the Covenant are contained in the Constitution and in various laws. According to article 20, paragraph 3, of the Constitution, programmes and activities of associations of citizens and political parties may not be directed towards violent destruction of the

constitutional order of the Republic of Macedonia or towards encouragement or incitement to military aggression, or stirring up national, racial or religious hatred or intolerance. This prohibition is also foreseen in the Law on Broadcasting as one of the basic principles of broadcasting. Furthermore, the Law contains a provision which does not permit programmes of broadcasting companies which are directed towards the violent overthrow of the constitutional system or towards encouragement or incitement to military aggression, or stirring up national, racial or religious hatred and intolerance (art. 35).

420. The actions of propaganda for war and instigating racial or religious hatred are criminalized in the criminal legislature of the Republic of Macedonia. The criminal offences of calling for violent change of the constitutional order (art. 318) and causing national, racial or religious hatred, disputes and intolerance (art. 319) are contained in the Criminal Code in the chapter Crimes against the State. The criminal and legal protection emanating from this chapter are limited to activities that imply a violent anti-constitutional change of the State order, thus drawing a clear line between the freedom of political conviction and activity, and the implementation of political and similar goals in a violent, undemocratic manner. The object of protection relating to these offences is the fundamental values of the constitutional system of the Republic of Macedonia (determined by article 8 of the Constitution), i.e. the State and the political and economic system of the Republic of Macedonia.

421. The crime of calling for a violent change of the constitutional system, according to article 318 of the Criminal Code, is perpetrated by a person who, with the intention of endangering the constitutional order or security of the Republic of Macedonia, publicly or by spreading leaflets calls for or instigates direct perpetration of the crimes in article 307 (acknowledging occupation), article 308 (endangering independence), article 309 (murder of representatives of the highest State authorities), article 310 (kidnapping representatives of the highest State authorities), article 311 (violence against representatives of the highest State authorities), article 312 (armed rebellion), article 313 (terrorism), article 314 (diversion), article 315 (sabotage), article 316 (espionage) and article 317 (disclosing a State secret). A prison sentence of three months to five years is foreseen for the offence.

422. The offence of causing national, racial or religious hatred, disputes and intolerance in Article 319 of the Criminal Code has two forms. The first is perpetrated by a person who by force, abuse, or by endangering security, ridiculing national, ethnic or religious symbols, damaging other people's objects, desecrating of monuments, graves, or in some other manner causes or excites national, racial or religious hatred, disputes or intolerance. For this form of the offence a punishment of imprisonment from one to five years is foreseen. The second qualified form of the offence consists of perpetrating the offence by abusing a position or authority, or by causing disorder and violence towards people, or causing property damage to a large extent. For this form, a punishment of imprisonment of 1 to 10 years is foreseen.

Article 21. The right to peaceful assembly

423. The right to peaceful assembly is guaranteed by article 21 of the Constitution of the Republic of Macedonia, according to which citizens have the right to assemble peacefully and to express public protests without prior announcement or special licence. The exercise of this right may be restricted only during a war or state of emergency.

424. In 1995 the Law on Public Assembly was enacted in the Republic of Macedonia, regulating the manner of implementation of the right of citizens to gather publicly for the purpose of peaceful expression of opinion and public protest. The Law on Public Assembly defines public gatherings as gatherings in an open or closed space for the purpose of entertainment, cultural, religious, humanitarian, social, political, economic, sport or similar interests of the citizens organized for the purpose of publicly expressing an opinion or protest. The Law on Public Assembly does not foresee compulsory notification about the public gathering, nor does it foresee approval for holding a gathering, which conforms to the quoted constitutional provision from article 21 of the Constitution; however, it foresees the obligation of the organizer of a public gathering to maintain order at the public gathering and to organize a system of persons to protect order of the public assembly. The organizer is obliged to stop the holding of a public gathering if and when danger arises for life and health, security and personal security of people and property in which case he is obliged to inform the Ministry of Internal Affairs. The Law in article 5 prohibits the bearing of arms by persons who attend public gatherings. The Ministry of Internal Affairs may stop a public gathering when it is directed towards endangering the life, health, security, personal security and property of citizens; to perpetration or instigation to perpetrate criminal offences determined by law; or is a danger to the environment. The Ministry of Internal Affairs shall stop a public gathering in the case when holding it is contrary to international agreements that foresee the obligation to ensure unhindered traffic. Foreigners may convene and hold a public gathering, provided they register it and receive approval from the Ministry of Internal Affairs (art. 8 of the Law).

425. The right to a peaceful assembly enjoys protection under criminal law. According to article 155 of the Criminal Code a person who by force, serious threat, deceit or in some other manner prevents or hinders the convening or the holding of a peaceful gathering shall be punished by a fine or imprisonment of up to one year. If the offence is committed by an official misusing his official position or authorization, the punishment foreseen is imprisonment of three months to three years.

426. According to the data of the Ministry of Internal Affairs, in the period from 1993 till October 1997, there were 7,735 public gatherings on the territory of the Republic that were previously registered with the Ministry of Internal Affairs. In only five cases did the Ministry ban the holding of a previously registered public gathering, to prevent the endangerment of security, personal security and property of citizens and to prevent endangerment to and hindrance of road traffic. During the same period there were no cases where a public gathering was stopped by the Ministry of Internal Affairs; however, in 61 cases a public gathering was stopped by the organizer.

427. During this period, 12 public gatherings of foreigners were registered on the territory of the Republic of Macedonia. Of these the Ministry of Internal Affairs gave approval in 11 cases, and in 1 case the request was refused because the organizer did not have the permission of the competent organ.

428. In the same period, during the holding of public gatherings no cases were registered of applied force or exceeding of authority by members of the police, and there are no reported cases of complaints submitted to the Ministry of Internal Affairs by citizens because of a ban on holding a public gathering or for exceeding authority.

429. During the same period, besides those registered, 800 public gatherings were held on the territory of the Republic of Macedonia that were not previously registered. In three cases, the Ministry of Internal Affairs stopped the gathering for security reasons. Here, members of the police used force to disperse the gathering in order to restore order and to enable unhindered and normal traffic. In those three cases, during the dispersal citizens clashed with police; one person lost his life and 70 policemen, 2 officials and 11 citizens (participants in the gathering) were injured.

430. In the mentioned period, there were no complaints to the Ministry of Internal Affairs by citizens because public gatherings were stopped or because force was used against citizens, and there are no cases of exceeding authority in the use of force at public gatherings.

Article 22. Freedom of association and the right to form and join trade unions

431. Freedom of association is guaranteed by article 20 of the Constitution of the Republic of Macedonia, according to which citizens are guaranteed freedom of association to exercise and protect their political, economic, social, cultural and other rights and convictions. Citizens may freely establish associations of citizens and political parties, join them and resign from them. The programmes and activities of political parties and other associations of citizens may not be directed at the violent destruction of the constitutional order of the Republic, or at encouragement or incitement to military aggression or ethnic, racial or religious hatred or intolerance. Military or paramilitary associations which do not belong to the armed forces of the Republic of Macedonia are prohibited.

432. The right to organize trade unions is regulated by article 37 of the Constitution of the Republic of Macedonia, according to which, in order to exercise their economic and social rights, citizens have the right to establish trade unions. Trade unions can form confederations and become members of international trade union organizations. The law may restrict the conditions for the exercise of the right to organize trade unions in the armed forces, the police and administrative bodies.

Political parties

433. The Law on Political Parties regulates the manner, conditions and procedure for founding, registering and dissolving political parties.

According to article 3 of the Law, citizens can freely found political parties with a goal (a) to achieve and to protect the political, economic, social, cultural and other rights and beliefs of its members and to participate in the decision-making process; and (b) to participate in the procedure for election of representatives to the Assembly of the Republic of Macedonia and to the councils of the local self-government units. In article 4, the Law sets forth the same limitations, i.e. prohibitions on the activities of political parties like those stated in article 20 of the Constitution.

434. In connection with the founding of political parties, the Law states that a political party can be founded by at least 500 adult citizens of the Republic of Macedonia with permanent residence in the Republic of Macedonia. Every adult citizen of the Republic of Macedonia can be a member of a political party, if he gives a statement that his membership is voluntary. Like membership, quitting a political party is voluntary.

435. A political party can start to operate on the day of its registration in the court register, on which day it becomes a legal entity. The court register of political parties is updated by the competent court. It is the political party's obligation, within 30 days from the day of founding, to submit a request for registration in the court register, and it is the court's duty to submit a decision on registration of the political party within 15 days from the day when the request was submitted. The court will not register the political party if it determines that it was founded for activities contrary to the prohibitions stipulated in the Constitution and article 4 of the Law on Political parties. An appeal addressed to the Supreme Court of the Republic of Macedonia against a decision to refuse registration is permitted within 15 days.

436. According to the data of the competent Court of First Instance in Skopje, which keeps the register of political parties, there are 36 registered political parties in the Republic of Macedonia. In the period between 1993 and 1997, 41 requests for registration of political parties were submitted. Of these, eight requests were rejected because they did not fulfil the legally prescribed minimum of 500 members as a condition for the founding of a political party. In all eight cases appeals were submitted against the decisions of which three were later withdrawn and the rest were rejected as unfounded.

437. The court of first instance, which is competent for the seat of the political party will prohibit the operation of the political party if it is determined that it is contrary to the prohibitions foreseen in the Constitution and the law. The court procedure is initiated upon the proposal of the competent public prosecutor. The public prosecutor and the person authorized to represent the political party are summoned to the court trial as parties. If the court prohibits the operation of the political party, the court must state and elaborate the reasons. The competent public prosecutor and the political party can lodge an appeal against the court decision to the Court of Appeal within eight days from the day when the decision was received. Until now, the Republic of Macedonia has not prohibited the operation of any political party.

438. The limitation of the right to political organization and activity is envisaged for certain professions such as judges, public prosecutors, members of the Republic Judiciary Council, judges of the Constitutional Court of the Republic of Macedonia and the Ombudsman, in order to ensure the independence of these functions. The Constitution of the Republic of Macedonia in article 100 prescribe that the court function cannot be coupled with carrying out another public function or profession or membership in a political party. Political organization and activity is prohibited in the judiciary. The same provisions in the Constitution apply regarding public prosecutors, judges of the Constitutional Court and members of the Republic Judiciary Council, and this comes from article 7 on the Law on the Ombudsman.

439. The prohibition of the political activity of judges is more precisely formulated in article 49 of the Law on Courts according to which a judge may not be a member or carry out political functions in a political party or carry out party or political activities. The Law, nevertheless, does not make any prohibitions in view of the professional organization of judges. According to article 49, judges may found associations in order to further their interest, to improve professional training and to protect the independence and autonomy of the judicial function. The Association of Judges of the Republic of Macedonia is active in the Republic of Macedonia.

440. The same prohibition applies for employees of the State administration (art. 48 of the Law on the Administration Organs). Also, according to this law, the officials, managers and the workers in the organs of the State administration may not be led by their political convictions, nor may they state and advocate them in carrying out the work and tasks in the administration organs.

Associations of citizens

441. The Law on Social Organizations and Associations of Citizens 15/ envisages that citizens may freely and voluntarily associate in social organizations and associations of citizens in order to develop various activities with which economic, political, cultural, scientific, educational and developmental, social and humanitarian, sport, specialized and other interests are realized. The social organizations and associations of citizens are independent and their work is public.

442. A social organization and association of citizens may be founded by at least 50 16/ adult citizens with permanent residence in the Republic of Macedonia. Persons who have been sentenced for criminal acts against the basic social order and the security of the Republic of Macedonia, the armed forces, humanitarian and international law, or rights and freedoms of the citizen and individual may not be founders of social organizations or associations of citizens. Membership in entrance to and resigning from associations of citizens are voluntary.

443. Social organizations and associations of citizens have the status of legal entities which they acquire on the day they are registered in the register for social organizations and associations of citizens kept by the Ministry of Internal Affairs. The organ authorized to keep the register adopts a decision whether to register them in the register. The founders of a

social organization or an association of citizens are obliged to submit a request for registration within 15 days from the day of founding. If it determines that the goals of the social organization or the association of citizens encompass activities prohibited by law, the organ authorized to keep the register will reject the request for registration in the register.

444. Within 30 days from the day when the request is submitted, the Ministry of Internal Affairs must proceed with the registration. If the organ determines that the statute is not in accordance with the law, it will point this out to the submitter of the request and will determine the period in which this will have to be corrected. If within the given period the requester does not comply, the competent organ will reject the request for registration. An appeal to the Second Instance Government Committee of the Republic of Macedonia is permitted. An appeal can be lodged with the Supreme Court of Macedonia against a decision to reject a request for registration adopted by the Committee.

445. According to data of the Ministry of Internal Affairs, there are a total of 6,595 registered social organizations and associations of citizens. In the period from 1993 to 1997, 2,581 requests for registration were submitted, of which 166 were rejected. Most of the requests (119) were rejected because they were not founded in accordance with the law, i.e. because their statutes were not in accordance with the law. In the same period 78 appeals were lodged against decisions to refuse registration, of which 49 were rejected by the Second Instance Government Committee for administrative disputes and 29 accepted and returned to the first degree organs for a new review and decision.

446. The work of the social organizations or the association of citizens will be prohibited if the activity is used for (a) destruction of the basis of the social order as determined by the Constitution, (b) threatening the independence of the country, (c) violation of the rights and freedoms guaranteed by the Constitution, (d) threatening peace and international cooperation, (e) stirring up national, racial and religious hatred and intolerance, (f) supporting criminal acts, (g) insulting public morals. The prohibition is pronounced through a verdict of the competent court. The procedure of the court is urgent, and is initiated upon the proposal of the competent organ keeping the register or the competent public prosecutor. The parties can lodge an appeal to the Supreme Court of Macedonia within eight days form the day the verdict is received; the Supreme Court decides on the complaint within three days.

447. Eight associations have been prohibited because their activities were contrary to the Constitution or the law. Only one appeal has been lodged against the decision, which was rejected.

Associations of foreigners

448. There are 31 representative offices of international humanitarian organizations and three associations of foreigners registered at the Ministry of Internal Affairs of the Republic of Macedonia. In the period 1993-1997 a total of 46 requests were submitted for registration of representative offices of foreign humanitarian organizations. Of these three requests were rejected,

for one of which the procedure is still under way (the case is before the Supreme Court of the Republic of Macedonia), one was rejected because of activities which are prohibited according to article 23 of the Law, and the third request was rejected because its statute was not coordinated. Two appeals were lodged which were both refused, and one complaint was filed with the Supreme Court.

449. In the Republic of Macedonia 13 associations of citizens are registered, founded for the promotion and protection of human rights.

Trade unions

450. Of special importance for the further operationalization of the constitutional provision in article 37 concerning the right to form trade unions, is the Law on Employment Relations which includes a special chapter entitled "Trade unions and employees". In it, several issues of importance for trade unions are regulated, for example: freedom to form trade unions, protection of the activities of trade unions and trade union representatives, obligations of employees in relation to trade unions, etc.

451. Freedom to form trade unions means that workers are free to establish trade unions and to freely become members of trade unions. This is done voluntarily. According to the legislation in the Republic of Macedonia membership in trade unions is not an obligation of the worker or a condition for realizing any of his rights resulting from employment relations. Workers have the right, without previous permissions, to establish organizations according to their own choice and to be members of these organizations. An important condition is that the manner and the conditions in which a trade union is organized and the condition for membership must be determined by a statute. The freedom to form trade unions is further secured by the provisions which provide that organizations may not be dissolved and that their activity may not be prevented in an administrative manner, if they have been founded and if their activities are carried out in accordance with the law and other regulations, as well as by the provision that the activities of the trade union and its representative may not be limited by acts of the employer, if they are in accordance with the Law on the Collective Agreements.

452. The Law on Employment Relations accepts as legitimate only those trade union activities of workers which are realized through an organization of workers, that is through an organized trade union which has a statute or rules and a programme. The Law on Employment Relations envisages an obligation for the employer to create conditions for activities of the trade union in connection with the protection of the rights of the workers resulting from their employment. This general legal provision has been concisely elaborated through the appropriate provisions of the General Collective Agreement for the economy of the Republic of Macedonia and the General Collective Agreement for the public services, the public companies, State organs, organs of local self-government and other legal entities which carry out non-economic activities. The provisions in both collective agreements take mainly from the documents of the International Labour Organization, namely Convention No. 135 and Recommendation No. 143 covering protection and benefits for representatives of workers in companies.

453. The Law on Employment relations includes special protection of the trade union representative in the sense that the trade union representative may not be held responsible nor may he be put in a unfavourable situation, nor can he be dismissed from work because of membership in the trade union or participation in trade union activities by which the rights and interests of the workers are protected, if he acts in accordance with the law and the collective agreement. The special protection for the union representative lasts during his whole mandate. Apart from the special protection determined by the Law on Employment Relations, it is also stipulated in the general collective agreements that the representative of the trade union organization, because of union activities, may not be transferred to another job with the same or another employer; be determined as being excess labour force and transferred on that basis; or be dismissed. According to the provision of the general collective agreements, if it is necessary the representative of the trade union should be released from work for his further training and the efficient execution of the functions of the union. Also, a member of a trade union who has been elected to office in the union and whose duties require that he temporarily stop working has the right, after the termination of the function to which he was elected, to return to work in an appropriate job.

454. The Constitution, in the article 37 which regulates the right to form trade unions, allows limitation of the right to establish trade unions in the armed forces, the police and the administrative organs; this has not yet been reflected in the appropriate laws.

The right to strike

455. Article 38 of the Constitution of the Republic of Macedonia guarantees the right to strike. This right may be limited for members of the armed forces, the police and the administrative organs.

456. The Law on Employment Relations in article 79 envisages that in order to realize their economic and social rights resulting from their employment, workers have the right to strike, which they exercise in accordance with the law, that is, the Law on Strikes which, among other things, stipulates the conditions under which the right to strike may be exercised in certain enterprises and in State organs.

457. In enterprises carrying out activities or work of special social interest, as well as in enterprises of special importance for defence, the workers' right to strike may be exercised only if the following is secured: a minimum of the working process ensuring security and property of the people or which are an irreplaceable condition for the lives and work of citizens and other enterprises, and realization of international obligations. The workers in State organs exercise the right to strike under the condition that the strike will not substantially threaten the functioning of those organs.

458. The Law on Tribunals, in article 90, regulates the issue of strikes in the judiciary and the functioning of the courts during strikes. During strikes work must continue in connection with scheduled trials and summonses that is in connection with public meetings and for the adoption and issuing of all decisions within the legal time limits. In proceedings which the law determines to be urgent, it is the court's duty to operate even during a

strike of the officers of the court. Inquiries and trials of criminal cases are deemed necessary in the following cases: when the accused is in custody, regarding temporary measures, disputes on publishing corrections to published information, cases in connection with the upbringing, maintenance and protection of children, out-of-court cases concerning persons detained in medical institutions, etc.

459. According to article 70 of the Law on Internal Affairs, the employees of the Ministry of Internal Affairs may exercise their right to strike on the condition that they do not substantially disrupt the regular work of the Ministry as determined by the law.

460. The Law on Health Protection prescribes that employees in health care institutions may exercise the right to strike if they do not endanger the life or health of persons in need of health protection. The management of the institution must supply urgent medical assistance and ensure minimum functioning of all parts of the institution during a strike by employees.

461. The Law on Strikes includes several guarantees of the rights of the workers who participate in the strike, but only if the strike has been organized in accordance to the law. According to the Law, the organizing of or participation in a strike under the conditions determined by the Law on Strikes is not a violation of the obligations resulting from employment, they may not be taken as a basis for initiating a procedure for determining the responsibility of the worker, nor can there be as a consequence of termination of the employment of the worker. A worker who participates in a strike is exercising his basic rights, resulting from his employment. The general collective agreements include the rights to financial compensation during the strike amounting to at least 60 per cent of the lowest salary determined by the collective agreement, if the strike has been organized and is carried out in accordance with the law. According to the Law on Pension and Disability Insurance, the time which the insured person has passed as a participant in a strike organized in accordance with the law is also counted in the insurance period.

462. The constitutionally guaranteed right to strike is also protected in the criminal legislation. Article 156 of the Criminal Code includes the criminal act of violation of the right to strike, which consists of taking away or limiting the right to strike using force or serious threats. The Code stipulates a fine or imprisonment of up to one year for violation.

Article 23. Protection of the family, the right to marriage and equality of the spouses

463. The protection of the family within the legal system of the Republic of Macedonia is guaranteed in article 40 of the Constitution according to which "The Republic provides particular care and protection for the family. The legal relations in marriage, the family and cohabitation are regulated by law. Parents have the right and duty to provide for the nurturing and education of their children. Children are responsible for the care of their old and infirm parents. The Republic provides particular protection for parentless children and children without parental care."

464. The legal relations in marriage and the family are regulated by the Law on the Family which is a codification of the substantive and procedural family law. The principles upon which this law is based emerge form the Constitution and are a result of modern views on relations in the family here and in the world. Thus, in the Law on the Family, the family is defined as a community of the parents and the children and other relatives who live in a common household. The family is considered to be established with the birth of the children or with adoption of children. According to article 6 of the Law, marriage is a community regulated by law where a man and a woman live together to realize interests of those of the family and of the society. Cohabitation which has lasted at least one year is equal to marriage with respect to the right to mutual support and to the property acquired during the duration of that cohabitation.

465. The obligation of the Republic to provide special care and protection for the family is also an obligation for all State organs, establishments and institutions. The purpose of measures taken is to ensure within the family, mutual help, respect and harmony and the prevention and elimination of various forms of disorder of the relations in the family and threats to its stability and security.

466. Special protection of the family is realized in several ways, for example through the institution of guardianship through which the Republic provides protection for children without parents, for minor children without parental care, and to adult persons by supplying a family pension. 17/ In addition, there are several forms of social protection, which is an activity organized by the State directed towards preventing and overcoming the basic social risks to which the citizen, the family, and groups of the population are exposed during their life (illness, injury, disability, old age, maternity, unemployment and professional maladjustment, maladjustment to the social environment). The right to social protection is regulated by the Law on Social Protection, which includes several measures of social protection of the family. Social prevention encompasses measures for prevention of social risks for the family, especially through educational counselling, development of various forms of self-assistance, voluntary work etc; non-institutional protection of the family includes expert help to the members of the family in overcoming crisis situations in the marriage and in the family, and especially in parent-child relationship, and making the family capable of functioning in the everyday life; institutional protection encompasses the right to preparation for work and production activities and the right to accommodation in institutions for social assistance; the right to welfare assistance includes continuous financial assistance for persons who are incapable of work and without means of livelihood, welfare financial assistance for persons capable of work and without means of livelihood, a financial compensation for assistance and nursing, the right to health protection, compensation for wages for shortened working hours because of nursing of a handicapped child, one-time in-kind assistance and the right to accommodation. The conditions for the exercise of all the listed rights to social protection are precisely determined by the Law on Social Protection.

467. The basic provider of social protection is the State which establishes the conditions for its implementation. The funds for social protection are

supplied from the budget of the Republic of Macedonia, and on the basis of the programme for the implementation of social protection, which is adopted by the Government, and from the other sources of revenue.

468. In addition to the measures of social protection and social security which are determined by Law on Social Protection, according to article 5 of this law, the role of the State in preventing the appearance of social risks is also exercised through taking measures in the fields of tax policy, employment, scholarship policy, housing policy, health, child-raising and education, etc.

469. The family also enjoys legal protection in the criminal legislation. The Criminal Code includes a special chapter under the title "Criminal acts against the marriage, the family and the youth" which includes the following criminalizations: bigamy (art. 195); facilitating contracting unlawful marriage (art. 196); cohabiting with an adolescent (art. 197); taking away an adolescent (art. 198); change of family status (art. 199); abandoning a sick child (art. 200); neglect and maltreatment of an adolescent (art. 201); not paying support (art. 202); breach of family obligations (art. 203); and selling alcoholic drinks to adolescents (art. 204).

Conditions for entering into marriage, the validity of the marriage and the procedure for contracting a marriage

470. The conditions for contracting a marriage and the validity of the marriage are determined by article 15 of Law on the Family, according to which a marriage can be contracted by two persons of different gender by freely stated will before the competent organ, in a manner determined by law. One condition in order to contract a marriage is adulthood which according to the legislature of the Republic of Macedonia, is acquired upon becoming 18 years of age. Yet, according to paragraph 2, of article 16 of the Law on the Family, in out-of-court proceedings, the competent court may allow the marriage of a person who has become 16 years of age if it determines that the person has reached physical and mental maturity necessary for carrying out the rights and obligations created by marriage, and after previously acquiring an opinion from a health institution and after expert help has been given at a centre for social work.

471. In addition to adolescence, the existence of a previous marriage is also a hindrance for contracting marriage. According to article 17 of the Law on the Family, a person may not contract a new marriage until the previous marriage has been dissolved. Also prohibited from contracting marriage are persons who, because they have a manifest form of mental illness with psychotic symptoms or residual signs of illness, are not in a condition to understand the meaning of marriage and the obligations which result from it, and who are at the same time incapable of reasoning; persons who are retarded in their mental (psychological) development and who belong to the group of the severely or very seriously mentally retarded (IQ under 36); persons with a limited impediment in their mental development or with slight impediments in their psychological development. Persons who have a serious hereditary illness in the family, may contract marriage after previously acquiring an assessment of their genetic structure from the Institute for the Mental Health of Children and Youths or another appropriate institution.

472. Blood relationship is also a limitation for contracting a marriage. Relatives in the first degree of kinship (grandfather, grandmother, mother, father, grandchildren) may not marry among themselves, nor may brothers and sisters, half-brothers and sisters, uncle/aunt and niece/nephew or first cousins. Persons whose kinship is based on adoption may also not marry. Father-in-law and daughter-in-law, son-in-law and mother-in-law, stepfather and stepdaughter, stepmother and stepson may not marry, regardless of whether the marriage because of which they have come to be in such a relationship has stopped. For justified reasons, the competent court, in out-of-court proceedings, might allow the stated relatives to marry. Non-marital kinship is an impediment for marriage as well as marital kinship, which arises from the equal treatment of marriage and cohabitation according to the law.

473. One of the most important conditions for marriage is its voluntary nature, so according to article 19 of the Law, a marriage is not valid when the consent has been given under duress or in false belief and such a marriage will be annulled. The annulment may be requested by one of the partners, the public prosecutor, as well as by persons and legal entities which have legal status for such an act.

474. The marriage is concluded before the administrative organ authorized to keep the registry book of marriages. It is the registrar's duty to check whether there is a legal impediment to the marriage and if so he will refuse. A complaint against this decision may be submitted within eight days.

475. The marriage concluded according to religious traditions does not have any legal effect (art. 30 of the Law on the Family).

Equality of the spouses

476. Equality of the husband and wife in marriage and the family finds its expression in several provisions of the Law on the Family. According to article 3 of this law, the relations in the family are based on equality, mutual respect, mutual help and support and protection of the interests of the children. The relations between the marriage partners are based upon the free decision of the man and the woman to contract a marriage, based upon their equality, mutual respect and mutual help (art. 6 (2)). When contracting the marriage the marriage partners may agree to take the surname of one or the other partner, or each may keep his own surname, or each may add the other's surname to his or her own (art. 31). Each partner is independent in choosing his work and profession. The marriage partners decide in agreement on the place of common residence and on the keeping of the household. The marriage partners, each according to his capabilities, care for the satisfaction of the family needs.

477. The equality of the man and the woman is also expressed in their relation to the children. According to article 8 of the Law, the parents have equal rights and duties in relation to their children. The parental right belongs to the mother and to the father equally and they exercise it together and in agreement. If one of the parents has died or is not known, or has had the parental right taken away, or if because for other reasons he is unable to exercise the parental right, the parental right is exercised by the other marriage partner.

478. The parent with whom the child lives has the right and the duty to maintain a personal relationship with his child.

479. In cases when the parents of the child do not live together, they agree with which of them the child will remain and if they cannot agree on this or if their agreement is not in the interest of the child, the decision will be made by the centre for social work. In cases when a child's parents who do not live together cannot agree upon the manner of maintaining personal relations with the child, the centre for social work will also decide on this issue.

480. According to article 205 of the Law on the Family, the property acquired by the marriage partners during the marriage is common property. The marriage partners have the right to ownership of real estate which is common mutual property and which is written into the public records in the name of both marriage partners as their common property. If only one marriage partner is written into the public records as the owner, it will be deemed that the registration was done in both names. The marriage partners manage and dispose of the common property, together and in agreement. One marriage partner may not independently dispose of his part of the common property or a part of it. In carrying out the task, which exceed the regular management of the common property, the permission of the other partner, is necessary stated in the appropriate form for the legal act requested.

481. During and after the termination of the marriage, the marriage partners may agree to divide the common property, and if they do not reach an agreement at the request of one of the marriage partners, the division of the property is carried out by the court in out-of-court proceedings. According to article 212 of the Law on the Family, when determining the shares of each marriage partner of the common property, the court starts from the fact that the common property of the marriage partners is divided into equal parts. At the request of one of the partners the court might award a larger part of the common property to the partner who proves that his contribution was clearly and substantially greater than that of the other partner. The partner to whom the children have been entrusted is given a part of the property from his share, along with the objects which serve the children or are intended solely for their direct use.

482. The equality of the marriage partners involves the responsibility for debts to third persons. According to article 216 of the Law on the family, both the marriage partners have responsibility for obligations to third persons which one of them has accepted for the covering of the current needs of the marital community, as well as for the obligations which burden both marriage partners according to general regulations.

483. In view of the property relations, the Law on the Family regards cohabitation as equal to the marriage community, envisaging a regime for the common property of the cohabiting partners as well as implementation of the same provisions governing the property relations of married partners. Along with divorce at the request of one of the partners, the Law on the Family in article 39 states that the marriage may be dissolved by mutual agreement of the partners. As for marriage, consent to the divorce by agreement must be stated freely, seriously and firmly. In case of divorce through an agreement

where there are children to be cared for, it is necessary for the partners to submit an agreement on the manner in which they will carry out their rights and duties and on the manner of support and raising of the children. After the divorce, the parent to whom the children have not been entrusted has the right to keep personal contacts with the children, if the court does not rule otherwise in view of the interests of the children (article 80 of the Law on the Family).

484. In case of divorce or annulment of the marriage, each of the former marriage partners keeps the surname he has, or can request a change of surname.

485. Equality between man and woman is also contained in the provision of article 56 of the Law stating that the recognition of paternity has a legal effect and is registered in the register of births only if the mother of the child agrees.

486. In view of the fact that one of the basic functions of the family is to bear and raise children, the provisions of article 41 of the Constitution also have an appropriate connection with family relations: "It is a human right freely to decide on the procreation of children. The Republic conducts a humane population policy in order to provide balanced economic and social development." The purpose of this constitutional provision is not to interfere or to limit the free will of the spouses concerning the number of children and the time of their birth, but through the humane character of this policy to create the economic and social conditions for the planning of the family based upon scientific knowledge and for the realization of humane and responsible parenthood.

Article 24. Rights of the child

487. All persons who have not reached the age of 18 years have the status of child in the legal system of the Republic of Macedonia. After becoming 18 years of age the persons become adults and acquire total legal capacity. The right and the obligation of the parents to care and support and bring up their children, as well as the special protection of children without parents and children whose parental care is inadequate are all included in article 40 of the Constitution of the Republic of Macedonia.

488. The principle of the best interest for the child is included in article 42 of the Constitution, according to which the Republic particularly protects mothers, children and minors. A person under 15 years of age cannot be employed. In cases of employment of minors, they have the right to special protection at work.

489. The principle of non-discrimination is incorporated in the legislation of the Republic of Macedonia. According to article 9 of the Constitution, "The citizens of the Republic of Macedonia are equal in their freedoms and rights regardless of sex, race, colour of skin, national or social origin, political and religious beliefs, property and social status. All citizens are equal before the Constitution and laws." In accordance with this provision, the principle of non-discrimination relates to children also.

490. As stated, the Constitution of the Republic of Macedonia determines the rights and the duties of the parents to care for the upbringing of their children. The realization of this constitutional provision has been worked out in detail in the Law on the Family, according to which parenthood is established by birth and adoption. The relations of the parents and the children are based upon the rights and the duties of the parents to care for the upbringing, care, health, preparation for independent life and work, education, training and development of work capabilities and habits of their minor children. According to the Law on the Family, the rights and duties of the parents and of the other relatives towards the children, as well as the rights and duties of the parents and the other relatives, are the same whether the children are born in marriage or out of wedlock.

491. the principle of non-discrimination is totally incorporated in the inheritance legislation. According to article 3 of the Inheritance Law, all citizens inherit under the same conditions. In connection with inheritance, non-marital kinship is equal to a marital one, and kinship created by total adoption is equal to blood kinship. Foreign citizens in the Republic of Macedonia have the same rights of inheritance as citizens of the Republic of Macedonia under conditions of reciprocity.

492. On the position of adolescent perpetrators of criminal acts and the procedure governing adolescents, see the explanation on articles 10 and 14.

493. Reflecting the constitutional provision guaranteeing the right to health, the Law on Health Protection establishes a system of health insurance for all citizens of the Republic of Macedonia, based upon the principles of obligation, mutuality and solidarity. Within the framework of the system of health insurance children are insured as members of the family of the insured, regardless of whether they are adopted or biological children.

494. The State finances certain measures and activities for preventive health care, obligatory immunization, research, prevention and reduction of infectious diseases, active protection of mothers and children, regular systematic check-ups of children, pupils and the students, and blood donation, from the funds of the Republic of Macedonia.

495. The health condition of the children in the Republic of Macedonia, based upon mortality and morbidity indicators has the following parameters. Infant mortality, even though decreasing in the last several years, is still one of the priority health problems. According to the classification of the World Health Organization, the Republic of Macedonia is among the countries with medium-level infant mortality (20-39 per 1,000 live births). The infant mortality rate of children from one to four years of age is approximately one child per 1,000.

496. In order to eradicate or reduce malnutrition in the Republic of Macedonia, there is a system for monitoring growth and nutrition in accordance with international acceptable norms and standards. The official health system has its own standards and norms for nutrition of children and with these criteria the number of hypotrophic children in the first year of life is 12.8 per cent of infants at three months of age, 11.8 per cent of infants at six months of age, and 7 per cent of infants at nine months of age.

497. The Criminal Code sanctions the maltreatment and neglect of children in several articles. Murder of a child at birth (art. 127) is sanctioned as well as to lead to suicide and help in suicide (when this act is done to an adolescent) (art. 128 (2)), kidnapping (when this act is done to an adolescent) (art. 141 (2)), sexual attack upon a child (art. 188), rape with abuse of position (when this act is done to an adolescent) (art. 189 (2)), seduction, prostituting and making sexual acts possible (art. 192), cohabitation with an adolescent person (art. 197), taking away an adolescent (art. 198), changes of family condition (art. 199), neglect and mistreatment of adolescent persons (art. 201), neglect of the obligation to support (art. 202), neglect of family obligations (art. 203), incest (art. 194), serving alcoholic drinks to an adolescent (art. 204), intermediary for carrying out prostitution (if it is done to an adolescent female person) (art. 191), showing pornographic material (art. 193) and abandoning a helpless child (art. 200).

498. A person younger than 15 years of age normally may not be employed; if the adolescent is employed, he has the right to special protection at work. Adolescents may not be employed on jobs that are harmful for their health or their morals. In accordance with the Law on Employment Relations, a worker younger than 18 is granted seven additional vacation days. A worker younger than 18 may not work longer than full working hours, and in industry, construction and traffic an adolescent may not work at night between 10 p.m. and 6 a.m. the next day. The Law on Employment Relations envisages a fine equivalent to 50 to 100 times the salary of the average salary in the Republic for an employer who violates the obligation to ensure special protection of a worker younger than 18. The Criminal Code sanctions the violation of the rights resulting from employment, including the rights concerning the employment, working hours, vacation, and protection of adolescent workers, and prohibits overtime and night work.

499. "The First Children's Embassy in the World - Megjasi" and the "Association for the Protection of Children of Macedonia" believe that it is necessary to activate a special mechanism for the control of unlawful employment of persons under 15 years of age, especially in connection with unregistered employment of youths in commercial and profit-making enterprises. The experiences of these non-governmental organizations point to the existence of economic exploitation of a certain number of children, in particular among the Albanian and Roma populations.

500. The Criminal Code sanctions unauthorized production and sale of narcotics. An unauthorized person who produces, processes or sells narcotics is punished with imprisonment for 1 to 10 years. "Facilitating the use of narcotics" is punishable with imprisonment from three months to five years. If this act is committed with an adolescent or several persons, or if it has caused exceptionally heavy consequences, the perpetrators will be punished with imprisonment from 1 to 10 years. It must be stressed that the Republic of Macedonia is actively participating in the international cooperation for control of illicit drug production and trafficking, and in 1993 signed the Single Convention on Narcotic Drugs of 1961 and its Protocol of 1972 and Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.

501. Since 1990, drug addiction has spread intensely in the Republic of Macedonia, because of which it is necessary that State institutions take appropriate measures. Today, we have a disturbing growth in the number of drug addicts among the youth, especially among adolescents. In the past two years experts in this field speak of a medium-level epidemic of this evil. 18/ In the period from 1991 to 1995 there was an enormous increase in drug abuse, and the number of addicts is growing progressively; by the end of 1995 there were 1,394 registered addicts. It is characteristic that during this period the young started to use or experiment with drugs at 12-14 years of age. Most of them are males and, by ethnic origin most are Macedonians (901), followed by Albanians (365), Serbs (75), Turks (28), Roma (10) and others (10). According to data of the Ministry of Internal Affairs, in the period 1993-1994 six persons died in the Republic of Macedonia because of an overdose. The death rate from overdose in 1994 amounted to 0.2/100,000 citizens.

502. The non-governmental organization "Association for the Protection of the Children in Macedonia" states that apart from the SOS telephone, on which the children may call for help when facing various problems, there is a need for the establishment of appropriate institutions whose basic task would be to give counselling assistance to children faced with the problem of sexual exploitation or abuse.

503. The Criminal Code sanctions the sale, trade and kidnapping of persons, including minors. If the act establishing a slave relationship and transportation of persons in a slave relationship (art. 418) has been committed on an adolescent, it will be punished with at least five years' imprisonment. Within the framework of the criminal act of unlawful crossing of the State border (art. 402), the person active in unlawful transfer of other people across the border of the Republic of Macedonia or the person who out of self-interest makes it possible to another person to unlawfully cross the border, will be punished with six months to five years of imprisonment. If the act of abduction (art. 141) is committed on an adolescent child, the perpetrator will be punished with at least three years' imprisonment. Article 198 of the Criminal Code sanctions taking away an adolescent from his parents, guardian, an institution or a person to whom he has been entrusted; preventing him from being with a person who has legal right; obstructing the implementation of a decision regarding custody. The punishment is one year of imprisonment. If the act has been carried out from self-interest or from other indecent motives or with the use of force, threat or lies, or if because of this the health, upbringing, support or education of the adolescent is seriously threatened, the perpetrator will be punished with from three months to five years of imprisonment.

504. One of the forms of social protection of children is the organization of vacation and recreation for children under 15. There are 26 organizations in the Republic of Macedonia specially for the rest and recreation of children and youth with a capacity of 6,235 beds which enables a coverage of approximately 45,000 children per year, or 19 per cent of children 6 to 15 years.

505. According to the Law on Defence, the age of conscription is 18 or, at the request of the recruit, 17. The recruits are sent to the army after they reach the age of 19. This Law determines that persons younger than 18 years of age may not be recruited for participation in military conflicts.

506. There are no military conflicts on the territory of the Republic of Macedonia of an international or of a domestic nature. The Republic of Macedonia is a party to all the Geneva Conventions and the Additional Protocols which constitute the corpus of humanitarian law. In this sense, it is obligated to respect the rights foreseen by them.

507. In the Republic of Macedonia, protection of the child is foreseen even before birth. According to the Law on Non-Litigation Procedure, if the birth is expected of a child who will inherit, the court responsible for the procedure on the inheritance is obliged to look after the inheritance rights of this child, if it is born alive. The court is obliged to notify the guardian organ that the birth of a child who could be called upon to inherit is expected so that it can assess whether the interests of the child shall be represented by its parents or guardian.

508. In accordance with the principle that both parents are responsible for the raising and development of their children, the parents have equal rights and duties in regard to their children. If one of the parents is deceased or unknown, or his parental right has been taken away, the parental right is exercised by the other. The parental right is exercised by the parents in conformity with the needs and interests of the children. They are obliged to provide optimal conditions for the healthy growth and development of their children in the family and the society. In case of disagreement between the parents in the exercise of the parental right, the centre for social work decides the issue.

509. The principle of responsibility of both parents for their children is reflected in the proceedings for marital disputes. At the reconciliation hearing, as well as during the divorce proceedings, when the marital partners have common minor children the court is obligated to cooperate with the social work organs in reaching an agreement for maintaining, educating, and supporting the children. When a marriage is dissolved by mutual agreement and there are minor children, an agreement on the manner of exercising the parental rights is submitted for the records of the competent court. When assessing the agreement, the court is obliged to obtain an opinion from the competent social work organ, and if it determines that the agreement is contrary to the interests of the children, it shall refuse to grant the divorce.

510. The centre for social work supervises the exercise of parental rights and within this framework, it decides in cases of disagreement between the parents in the exercise of the parental right.

511. If the parents of the child are capable of work but earn less than the minimum needed for existence, the centre for social work will decide if the family has the right to receive the difference between the income of its

members and the minimum. In order to provide financial security for the child, the right to a child supplement has been foreseen when the income of the parent is under a specific level.

512. In order to enable the adult family members to work children of pre-school age are accommodated in kindergartens from the age of nine months to five years, and from the age of five to seven years, children have the possibility to attend pre-school institutions which provide meals, physical care, play and educational work that are appropriate to the age of the child. For the kindergartens the parents pay a fee which is adjusted to the level of their monthly incomes.

513. In accordance with the Law on the Family, juveniles have the right to live with their parents. They may live separately from their parents only when this is in the direct interests of the children or when this is in the common interest of the children and the parents. The parent(s) with whom the child does not live has the right and duty to maintain personal relations with the child.

514. The Law on the Family foresees the possibility, if this is required by the interests of the child, for the parents to entrust the child to a third person or to place him in an appropriate institution. If the parents, or the parent who exercise the parental right on his own, are absent from their place of residence for along period of time for justified reasons, and they do not take the children along, the children may be entrusted to another person provided that the centre for social work previously approves such accommodation.

515. When issuing the divorce decree, the court shall decide on the maintenance, education and support of the children of the marriage. If the parents have not reached an agreement on this, or if their agreement does not conform to the interests of the children, after the court obtains an opinion from the centre for social work and investigates all circumstances, it shall decide whether the children shall remain with one parent, or some shall remain with the mother and some with the father, or all of them shall be entrusted to some third person or institution. The parent to whom the children have not been entrusted has the right to maintain personal relations with them, if the court does not determine otherwise considering the interests of the children.

516. According to the Law on the Family, the court or the centre for social work may take a child away from the custodial parent(s) if the child is neglected or a serious threat exists for its proper development and upbringing. An appeal can be lodged against such rulings to the Ministry of Labour and Social Policy. If the Ministry confirms the ruling, the person who has a legal interest has the right to initiate an administrative dispute before the competent court. In the cases when a parent abuses his parental right or neglects his parental duties, the court shall take away the parental right from that parent, with a ruling in an out-of-court procedure, after obtaining an opinion from the centre for social work.

517. In the Republic of Macedonia children are registered immediately after birth. According to the Law on Registers the following is entered into the register of births:

(a) Data on the birth of the child, namely: name and family name; sex; hour, day, month, year and place of birth; citizenship and identification number;

(b) Data on the parents of the child, namely: name and family name (for the mother, also maiden name); day, month, year, and place of birth; nationality; citizenship, place of residence and address of the home;

(c) Acknowledgement of paternity; statement of legitimacy; details regarding adoption, guardianship, and marriage; change of the personal name of a parent; change of citizenship of the child; death.

518. The birth of the child is registered, in writing or orally, for the record of the registrar for the area where the child was born, within 15 days from the day of birth. The birth of the child in a vehicle is registered with the registrar where the voyage of the mother finished. If the child is stillborn, it is registered within 24 hours after birth. A health-care institution is obligated to report the birth of a child in the institution.

519. Registration is performed by the child's father or the person in whose dwelling the child was born, by the mother when she is capable of this, or by the health-care employee who participated in the delivery. If those persons do not exist, or if they are not able to report the birth of the child, it can be reported by a person who found out about the birth.

520. A child whose parents are unknown is registered in the register of births for the place where it was found. The registration, performed on the basis of a ruling of a competent guardianship organ, contains the personal name and sex of the child and hour, day, month and year it was found.

521. The right of the child to a personal name is foreseen in the Law on Personal Names of the Republic of Macedonia. The personal name is a personal right of the citizen, who uses the personal name that is noted in the register of births. Registration of the personal name of a child is performed within two months from the day of birth. The personal name of the child is chosen by the parents in mutual agreement. The family name of the child is the family name of one or both of the parents, except if the parents decide otherwise. If a parent is not alive, unable to exercise parental rights or unknown, the personal name of the child is chosen by the other parent. In the absence of both parents, this is done by the competent guardian organ. The personal name of an adopted child is chosen by the adoptive parents. If the adoptive child has its own personal name, the adoptive parents may, at adoption choose another name, except if the adoption act stipulates that the adopted child retains its family name. A citizen has the right to change his personal name. The personal name of a juvenile shall be changed at the request of the parents or guardian. If the juvenile is older than 10, his consent is also required.

522. In accordance with the constitutional provision on citizenship of the Republic of Macedonia, the Law on Citizenship regulates in more detail the

manner and conditions for attaining citizenship. According to this Law, citizenship of the Republic of Macedonia is acquired by origin; by birth on the territory of the Republic of Macedonia; by naturalization; and through international agreements.

523. Citizenship is attained at birth by a child both of whose parents are citizens of the Republic of Macedonia; one of whose parents is a citizen of the Republic of Macedonia and the child was born in the Republic of Macedonia; one of whose parents is a citizen of the Republic of Macedonia and the other parent is unknown, with unknown citizenship or stateless, and the child was born abroad. Citizenship of the Republic of Macedonia is also attained at birth by an adopted child where one or both of the adoptive parents is a citizen of the Republic of Macedonia.

524. A child born abroad, one of whose parents is a citizen of the Republic of Macedonia at the moment of birth and the other is a foreign citizen, attains citizenship of the Republic of Macedonia by origin if it is reported for registration as a citizen of the Republic of Macedonia before becoming 18 years of age, or if it settles permanently in the Republic of Macedonia, before becoming 18 years of age, with a parent who is a citizen of the Republic of Macedonia. In case of a court dispute concerning the custody of a child, citizenship is attained after the court decision comes into effect. The child who attains citizenship in this manner is considered a citizen of the Republic of Macedonia from the moment of birth.

525. A child whose parents are unknown attains citizenship by origin if it is found on the territory of the Republic of Macedonia. Such citizenship shall be terminated if it is determined before the child reaches the age of 15 that the parents are foreign citizens. This provision of the Law on Citizenship protects children from statelessness, in accordance with article 7, paragraph 2, of the Convention.

526. A juvenile attains citizenship of the Republic of Macedonia by naturalization if both parents attained citizenship of the Republic of Macedonia by naturalization. If one of the parents attained citizenship of the Republic of Macedonia by naturalization, his minor child does also, if this is requested by the parent and the child lives in the Republic of Macedonia, or if this is requested by both parents regardless of where the child lives. In case of full adoption, the same rule is applied. If the child has reached the age of 15, his consent is also required. A person attains citizenship of the Republic of Macedonia by naturalization when the ruling is issued.

527. For a child under 18, citizenship of the Republic of Macedonia may be terminated at the request of both parents who have renounced their citizenship of the Republic of Macedonia, or if the citizenship of the Republic of Macedonia was renounced by one of the parents if the other parent, who does not have the citizenship of the Republic of Macedonia, has agreed. If the child's parents are separated, the citizenship of the Republic of Macedonia of the child may be terminated at the request of the parent with whom the child lives or who has custody, and who himself has submitted a request to renounce

his citizenship of the Republic of Macedonia, if the parent with whom the child lives is a foreigner. The consent of the other parent is required in both cases. The same applies also to a minor adopted child.

528. If the other parent does not agree to the termination of the child's citizenship, the child's citizenship may be terminated if the competent guardian organ determines that this is in the child's best interest. In such cases, if the child has reached the age of 15, his consent is also required.

529. For a minor adopted child who is a citizen of the Republic of Macedonia, in the case of full adoption when the adoptive parents are foreign citizens, citizenship of the Republic of Macedonia shall be terminated at the request of the adoptive parents. In this case, if the juvenile has reached the age of 15, his consent is also required.

Article 25. The right to participate in public affairs, voting rights and the right of equal access to public service

530. The normative grounds for the guarantee of the political rights of citizens expressed, in the legal system of the Republic of Macedonia, in article 2 of the Constitution, according to which: "Sovereignty in the Republic of Macedonia is derived from the citizens and belongs to the citizens, and they exercise their authority through democratically elected members of Parliament, through referendum and through other forms of direct expression". Besides this, one of the fundamental values of the constitutional system of the Republic of Macedonia is political pluralism and free, direct and democratic elections (article 8, paragraph 2 (5) of the Constitution of the Republic of Macedonia).

531. Indirect participation in the performing of pubic affairs is implemented by the citizens of the Republic of Macedonia through the election of the members of Parliament of the Republic of Macedonia as well as through the election of mayors and members of the councils of the units of local self-government.

532. The voting rights of citizens are guaranteed by article 22 of the Constitution, according to which every citizen on reaching 18 years of age acquires the right to vote, which is equal, universal, and direct, and is exercised at free elections through secret ballot. Persons deprived of legal capacity do not have the right to vote. The exercise of the right to vote is further operationalized in several laws such as the Law on the Election of Representatives, the Law on the Election of the President of the Republic, the Law on Local Elections, the Law on the Voters' List and Voters' Identification Card and the Law on Polling Stations.

533. According to the Law on the Voters' List all citizens are registered in the General Voters' List upon reaching 18 years of age if they reside on the territory of the Republic of Macedonia or, if they are temporarily abroad, they maintain a residence on the territory of the Republic of Macedonia. Also, citizens performing military service, as well as citizens who are in

detention or serving a prison sentence, are registered in the General Voters' List. Citizens whose legal capacity was revoked by an effective court decision are not registered in the General Voters' List.

534. In order to enable every voter to exercise his voting rights, the Law on the Voters' List foresees the possibility during the whole year for the citizen to inspect the General Voters' List, and if he determines that he or some other citizen is not registered in the list, or if he determines that the data should be altered, he has the right to so request. The competent organ for maintaining the General Voters' List, immediately and at the latest within three days after receiving the request, shall check the correctness of the data and the documents submitted by the citizen and if it determines that the request is well founded, it shall make the requested change. The citizen has the right of appeal to the State commission of the voter's list against the ruling to refuse his request.

535. The competent organ for maintaining the General Voters' List is obliged to make available for inspection extracts form the Voters' List during a specific period of time after the scheduling and before the holding of elections and it shall inform the citizens through the public media of the place where inspection may be performed and the duration of the inspection and recommend that they do inspect the Voters' List.

536. Also, in order to provide equal conditions for the free expression of the voters' will, the electoral commission is obliged, at least 20 days before the day of the election, to make public, in a visible place, a description of the voting places. This can be done through the local media. The State electoral commission shall publish the list of voting places in the press and other public media (article 12 of the Law on Voting Places).

537. The citizens of the Republic of Macedonia exercise their voting right every four years, when elections are held at the national and local levels. Every five years, citizens of the Republic of Macedonia elect directly the President of the Republic. The first multi-party elections in the Republic of Macedonia were held in 1990, and in 1994 the second multi-party elections were held; 38 political parties took part.

538. The Constitution and the electoral laws guarantee the freedom and confidentiality of voting. The Law on Elections for Members of Parliament and the Law on Local Elections contain an identical provision according to which no one may ask a citizen who he voted for or why he did not vote. The law also prohibits campaigning 48 hours before the elections and on the day itself as well as the publication of public opinion research about the candidates, lists of candidates, political parties and groups of voters 15 days before the elections. No new posters may be put up after the election campaign is concluded. The violation of these legal prohibitions implies liability for a violation. The violation of the voters freedom of choice and violation of the confidentiality of voting are criminal offences pursuant to article 160 and 163 of the Criminal Code.

539. The procedure for proposing candidates is regulated by law. The Law on the Election of Representatives foresees two types of entities to nominate candidates for Parliament. According to article 20 of the Law, registered

political parties and at least 100 citizens have this capacity. Political parties which have more than 1,500 members, may directly nominate a list of candidates, and those how have fewer members must previously collect 100 signatures for each candidate. Candidates may also be independent, i.e. without party affiliation. However, this has no influence upon their status, because all representatives are equal in their rights and obligations. At the parliamentary elections of 1994 a total of 1,765 candidates were nominated for 120 seats in the Parliament of the Republic of Macedonia; of these 1,482 (83.9 per cent) were candidates of the political parties, and 283 (16.03 per cent) were independent candidates of whom 7 were elected as members of Parliament.

540. The Law on Local Elections also foresees that besides political parties, groups of 200 citizens may also nominate candidates for the council and for mayor. According to the Law on Local Elections, the candidates for council membership or mayor should have a permanent place of residence in the municipality where elections are held and he may be nominated on only one list. For each nomination, written consent is required from the candidate, which is irrevocable.

541. The Law foresees protection of the candidates. If, during the election campaign, the rights of certain candidates are violated in speeches or statements, they have the right to initiate a procedure for the protection of their rights before the competent principal court. The procedure is urgent, so the court is obliged to decide on the request within three days from its submission. The court decision is published in the media immediately (article 28 of the Law on Local Elections).

542. Political parties, groups of voters and candidates have the right, under the same conditions and equally, to all political and propaganda announcements and other forms of political propaganda whose goal is to influence the decision of voters in the elections. The duration of the electoral campaign and the conditions and methods of advertising in the broadcast or print media are determined by the Parliament of the Republic of Macedonia by a Decision on the Rules for Equal Media Presentation; this decision is published at least 40 days prior to the day of the elections. The Law on the Election of Representatives and the Law on Local Elections also regulate in detail the voting procedure. Voting is done personally. The voter who is unable to vote at the voting place (a helpless or ill person) and who wants to vote, shall notify the electoral board about this at the latest three days before the voting, which shall enable him to vote in his home or in the hospital where he is being treated, in a manner that ensures confidentiality of voting. The electoral board provides a special ballot box which is carried empty to the home or hospital. A voter who, because of physical disability or illiteracy, cannot vote in a manner determined by law has the right to take along a person to help him complete the voting sheet (article 49 of the Law on Local Elections).

543. Voters who on the day of the elections are not in their place of residence because of military duty vote in their unit. Voters who are temporarily abroad, vote at the voting places in the municipality which was their last place of residence on the territory of the Republic of Macedonia before leaving, or at the diplomatic and consular missions of the Republic of

Macedonia. A special voting place is set up in institutions where citizens serve their military duty or serve a punishment of imprisonment or detention (article 8 of the Law on Voting Places).

544. The organs responsible for supervising elections - electoral committees and, especially, electoral boards - directly manage the voting and provide for the regularity and confidentiality of the voting.

545. The legal system of the Republic of Macedonia foresees several kinds of protection of the right to vote: protection exercised through the intervention of the criminal law, protection exercised through the actions of the responsible organs, and protection by the courts. The criminal and legal protection of the right to vote is implemented such that the most severe, dangerous attacks which violate or threaten the right to vote are criminalized, and punishments and other criminal sanctions are prescribed for their offenders. The criminal legislation of the Republic of Macedonia foresees eight criminal offences against the right to vote. They are systematized within chapter XVI of the Criminal Code under the title Crimes against Elections and Voting, which contains the following criminalization: preventing elections and voting (art. 158), violation of the right to vote (art. 159), violation of the voter's freedom of choice (art. 160), misuse of the right to vote (art. 161), bribery at elections and voting (art. 162), violation of the confidentiality of voting (art. 163), destruction of electoral documents (art. 164) and electoral fraud (art. 165).

546. Direct participation in the conduct of public affairs is exercised by the citizens of the Republic of Macedonia through referenda and other forms of direct expression. According to the Constitution, a referendum is compulsory for a change of the border of the Republic and for entering or withdrawing from an alliance or community with other States. Besides this, Parliament may call a referendum on specific issues within its competence by a majority of votes of the total number of members of Parliament. Parliament is obliged to announce a referendum when a proposal is submitted by at least 150,000 voters. A decision made through a referendum is compulsory (articles 73, 74 and 120 of the Constitution).

547. Also, by means of a referendum citizens in units of local self-government may decide on issues of local importance. The council of the unit of local self-government may call a referendum on its own initiative or upon the request of at least 20 per cent of the voters in the unit of local self-government, in which case it is compulsory to hold the referendum (article 23 of the Law on Local Self-Government).

548. Besides the referendum, the Constitution also foresees as a form of direct exercise of authority by citizens the civil initiative by which on the basis of 10,000 signatures, citizens can propose the enactment of a specific law; 150,000 signatures are required to submit a proposal to start activities for changing the Constitution. Besides this, the Constitution foresees that every citizen, group of citizens, institution and association may take initiatives for the enactment of a law. At the local level, the Law on Local Self-Government also foresees civil iniatives and gatherings of citizens.

549. Article 23 of the Constitution guarantees that every citizen has the right to participate in the public service. This covers the functions of authority - legislative, executive and judiciary. Citizens may enjoy this right without restrictions and in all kinds of public functions, which means that every function (office) is accessible to every citizen without any form of discrimination. This also results from article 9 of the Constitution according to which citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of sex, race, colour of skin, national and social origin, political and religious beliefs, property and social status. However, the right to participate in the public service does not mean that any citizen may unconditionally behold a public function or participate in its performance. This especially concerns those public functions that are accessible under specific conditions of education, knowledge, experience and expertise. These conditions are not discriminatory because they do not depend upon the elements on which the equality of citizens is determined.

550. In order to provide independence in the performance of public functions, the Constitution stipulates the mutual exclusion of almost all elected functions with the performance of other public functions or professions, for example, the President of the Republic and members of the judiciary may not exercise any other office or profession in the public sector or a political party.

551. The conditions for performing and terminating public functions is determined in detail by the Constitution and the appropriate laws.

552. To be elected a member of Parliament, one must be a citizen of the Republic of Macedonia who has reached 18 years of age, who has legal capacity and who has a permanent residence on the territory of the Republic of Macedonia. According to the Constitution, the mandate of a member of Parliament ceases when he resigns, when he is convicted of a criminal offence for which a punishment of imprisonment of at least five years is prescribed, as well as when Parliament is dissolved. The mandate of the member of Parliament may be revoked when he is convicted of a criminal offence or other punishable offence which makes him unworthy to perform the function of member of Parliament, as well as for unjustified absences from Parliament for longer than six months. A member of Parliament may not be recalled.

553. The election of the President of the Republic of Macedonia is regulated by article 80 of the Constitution, according to which the President is elected in general and direct elections, by secret ballot, for a term of five years, with the right to one re-election. The President must be a citizen of the Republic and on the day of the election he must be at least 40 years of age. A person may not be elected as President of the Republic who as of the day of the election has not lived in the Republic of Macedonia for at least 10 of the previous 15 years. A candidate for President may be proposed by at least 10,000 voters or at least 30 members of Parliament.

554. The function of President of the Republic ceases upon death, resignation, permanent incapacity, as well when the Constitutional Court determines that the President has violated the Constitution and the laws in the performance of his rights and duties (articles 82 and 87 of the Constitution).

555. Any citizen of the Republic of Macedonia has the right to elect and be elected a member of a council and a mayor of a unit of local self-government who is 18 years of age, has legal capacity and has permanent residence in the municipality where the elections are held (article 3 of the Law on Local Elections). The mandate of a member of a council or of the mayor of a unit of local self government ceases by force of law if he resigns, in case of death, if because of sick leave for longer than one year he can not perform the functions, as well as when he is convicted by an effective verdict of a criminal offence with a prison sentence of over six months. The mandate shall be revoked of a member of a council or a mayor if he is convicted of a criminal or some other offence which makes him unworthy to perform the functions, as well as for an unjustified absence longer than six months (articles 38 and 48 of the Law on Local Self-Government).

556. For the conditions for the election and dismissal of judges, see article 14 of this Report. The same conditions as foreseen for judges are applied for appointing public prosecutors and deputy public prosecutors. An adult citizen of the Republic of Macedonia who has completed at least secondary education and who is respected for performing his duties may be elected as a lay-judge. Lay-judges are elected for a period of four years and may be re-elected.

557. According to the Law on the Public Prosecutor, a person may be elected as public prosecutor who meets the general conditions determined by law for employment in a State administrative organ, who is a lawyer and who has work experience of over nine years in legal matters and whose activity has been proven in the field of protection of the rights of citizens.

558. The conditions for the private practice of law which, according to the Constitution, is defined as an independent and autonomous public service, are determined by the Law on the Private Practice of Law. According to article 8 of this law, private lawyers must be registered in the Directory of Attorneys of the Bar Association of the Republic of Macedonia. A citizen of the Republic of Macedonia may be registered in the Directory of Attorneys if he meets the general conditions for employment, has a degree in law, has passed the relevant examination, and who enjoys a reputation for the private practice of law. A professor or assistant professor of the Faculty of Law who taught a legal subject may also be registered in the Directory of Attorneys. The right to the private practice of law if the person gives up the right to the private practice of law; if he becomes otherwise employed; if he loses citizenship of the Republic of Macedonia; if he is deprived of legal capacity or permanently loses the capacity to practise law; if he is convicted of a criminal offence and sentenced to unconditional imprisonment for at least six months or if a security measure of prohibition of performing the private practice of law is pronounced against him. An appeal is allowed against the decision to terminate the right to practise of law to the competent organ of the Bar Association, and an administrative dispute may be raised against the final decision.

559. According to the Law on Notaries, a citizen of the Republic of Macedonia may be appointed as a notary, who has legal capacity and who meets the general conditions determined by law for employment in a State organ, who has a degree in law and has work experience in legal matters of at least five years, who

has passed the relevant examination, who is a respected member of the community and who can prove that he shall provide the equipment and premises which, according to the criteria determined by the Minister of Justice, are required for performing notarial services. A notary is appointed by the Minister of Justice based on an open competition announced by the Minister of Justice and conducted by the Bar Association.

560. According to article 97 of the Constitution, the bodies of State administration in the field of defence and police are headed by civilians who have been civilians for at least three years before being elected to these offices.

561. The conditions for employment in State administrative organs are contained in the Law on Administrative Organs. According to article 178 of this law, any person may be employed in an administrative organ who is a citizen of the Republic of Macedonia; of legal age; has the physical and mental capacity to perform specific tasks; has no legal proceedings pending against him; and has the qualifications prescribed for performing the appropriate work and tasks. A person may not work in an administrative organ who has been convicted of a criminal offence for which he has been sentenced to imprisonment for at least six months or of some other offence for which he has been sentenced to imprisonment for at least one year. In the case of a person sentenced to up to five years' imprisonment, the prohibition lasts for five years; in the case of a sentence of over 5 years, the prohibition lasts for 10 years.

562. A foreign citizen or a citizen without citizenship may be employed in an administrative organ only with the approval of the Government or from the organ appointed by it.

563. Employees in administrative organs who are engaged in professional work connected with the implementation of the function of the administrative organ must have the prescribed professional qualifications, depending upon the complexity of the work and tasks, and, when this is specifically specified, work experience in the appropriate profession or service. Employees who directly execute laws and other regulations, who are authorized to make rulings in administrative proceedings, who undertake more complex actions in deciding administrative matters, on inspection work, on preparing regulations and other acts of Parliament and Government, as well as on other matters and tasks whose performance requires a high level of expertise and independence, must have university-level qualifications.

564. Positions in the State administrative organs are announced publicly. The selection of candidates is done by an official of the concerned organ based on a list proposed by a selection committee.

565. Besides these general conditions for employment in a State administrative organ, the Law on Internal Affairs also prescribes special conditions for employment in the Ministry of Internal Affairs. According to article 48 of the Law, a person may be employed in the Ministry of Internal Affairs who, besides the general conditions, also meets the following: he must not have been convicted of a criminal offence against the constitutional system and the security of the Republic of Macedonia, the economy, the rights

and freedoms of the individual and citizen, the armed forces of the Republic of Macedonia or official duty; he must not have committed grave offences against life and body or a property or criminal offence perpetrated out of self-interest or dishonest motives; no criminal proceedings must be pending against him for the above-mentioned offences; no security measure prohibiting the exercise of a profession, activity or duty must be in force against him and he must enjoy good health and mental and physical capacity.

566. Employment in the Ministry of Internal Affairs without an open competition may be possible for certain positions with special duties and authority, determined by law (police officers and operatives, employees who perform work directly connected to police work, the Minister, his deputy, heads of sections and employees who head specific organizational units, scholarship-holders of the Ministry and persons who graduated from the institution for the education of personnel for the needs of the Ministry.

Article 26. Prohibition of discrimination

567. The principle of non-discrimination is fully incorporated in the legal system of the Republic of Macedonia. Article 9 of the Constitution states: "Citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of sex, race, colour of skin, national and social origin, political and religious beliefs, property and social status. All citizens are equal before the Constitution and law."

568. The Constitution stipulates in article 50 equal legal protection for all citizens, determining that every citizen may invoke the protection of the rights and freedoms determined by the Constitution before the courts and the Constitutional Court in proceedings based upon the principles of priority and urgency. This right is further worked out in article 7 of the Law on the Courts, according to which everyone has the right to equal access to the courts in protection of his rights and interests.

569. In this regard, in accordance with article 8 of the Law on Administrative Organs, the administrative organs are also obliged to provide for everyone who appears in proceedings before them equal legal protection in the implementation of their rights, obligations and interests.

570. The Criminal Code is a powerful instrument in the fight against racism, intolerance and discrimination on whatever grounds. The actions of violation of the prohibition of non-discrimination are criminalized in article 137 - injury to the equality of citizens, article 319 - causing national, racial or religious hatred, discord and intolerance, and article 417 - racial and other discrimination. The offence of violation of the equality of citizens in article 137, paragraph 1, perpetrated by a person who, based on a difference in sex, race, colour of skin, national and social origin, political and religious belief, property and social position, language or other personal characteristics or circumstances, takes away or limits the right of an individual and citizen determined by the Constitution, by law or by ratified international agreement, or who, based on such differences, favours citizens in contravention of the Constitution, the law or international ratified agreement, shall be punished with imprisonment of three months to three years. If the offence is perpetrated by an official in performing his duty, he shall

be punished with imprisonment of six months to five years (qualified form of the offence). For the criminal offence of causing national, racial or religious hatred, discord and intolerance, see article 20 of this report.

571. The criminal offence of racial and other discrimination in article 417, paragraph 1, is perpetrated by a person who, based on differences in race, colour of skin, nationality or ethnic affiliation, violates the basic human rights and freedoms acknowledged by the international community. A punishment is foreseen of imprisonment of six months to five years. With the same punishment shall be punished a person who persecutes organizations or individuals because of their efforts in favour of the equality of people. Paragraph 3 of this article foresees a prison sentence of six months to three years for a person who spreads ideas about the superiority of one race above another, or who advocates racial hatred, or incites to racial discrimination. Besides criminal legal protection, the Constitution also foresees protection before the Constitutional Court of the Republic of Macedonia, stipulating that this court is competent to decide on applications of citizens for protection of rights and freedoms concerning the prohibition of discrimination based on sex, race, religious, national, social and political affiliation. According to article 20, paragraph 3, of the Constitution, the programmes and activities of citizens associations and political parties may not be directed, among other things, towards incitement of national, racial or religious hatred or intolerance. This constitutional provision is further operationalized in the Law on Political Parties and the Law on Social Organizations and Associations of Citizens, according to which the competent organ shall not register a political party or a social organization or association of citizens if their activity is contrary to a constitutional prohibition. A violation of a constitutional prohibition is grounds to prohibit an already founded political party or association of citizens.

572. Article 4, paragraph 3, of the Law on Religious Communities and Religious Groups, stipulates that a citizen may not be denied his rights under the Constitution and the law because of religious convictions, belonging to a religious community or group, performing or participating in religious rituals and other kinds of religious expression.

573. In the area of secondary education, the Law on Secondary Education incorporates in full the principle of non-discrimination. According to article 3 of this law, everyone has the right to secondary education under equal conditions determined by this law. Discrimination is not allowed on the grounds of sex, race, colour of skin, national and social origin, political and religious conviction, property and social position.

574. The Law on Broadcasting foresees as one of the fundamental principles of broadcasting the prohibition of inciting national, racial and religious hatred and intolerance (art. 8). The Law on Telecommunications also explicitly prohibits the transmission and transfer of messages that incite national, racial or religious hatred or intolerance (art. 9).

575. In accordance with article 4 of the Law on the Execution of Sanctions, the rules for the execution of sanctions are applied without bias. Discrimination is prohibited on the grounds of race, colour of skin, sex,

language, religion, political and other convictions, national and social origin, next of kind, property or social position, or some other status of the person against whom the sanction is executed.

576. Article 40 of the Law on Judges stipulates that in the election of judges and lay-judges there may be no discrimination as to sex, race, colour of skin, national and social origin, political and religious conviction, property and social position.

Article 27. The rights of minorities

577. The position and rights of members of minorities guaranteed by article 27 of the Covenant are determined at constitutional level by several provisions which represent the basis for further legal definition. The equality of the members of nationalities arises from article 9 of the Constitution of the Republic of Macedonia, which enunciates the principle of non-discrimination by determining that "Citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of sex, race, colour of skin, national and social origin, political and religous beliefs, property and social status. All citizens are equal before the Constitution and law".

578. Besides enjoying full equality as citizens, the nationalities in the Republic of Macedonia also have special rights. Special treatment of the nationalities is determined at the constitutional level whereby all nationalities in the Republic of Macedonia have equal treatment and enjoy the same rights. According to article 48 of the Constitution:

> "Members of nationalities have a right freely to express, foster and develop their identity and national attributes.
>
> "The Republic guarantees the protection of the ethnic, cultural, linguistic and religous identity of the nationalities.
>
> "Members of the nationalities have the right to establish institutions for culture and art as well as scholarly and other associations for the expression, fostering and development of their identity.
>
> "Members of the nationalities have the right to instruction in their language in primary and secondary education, as determined by law. In schools where education is carried out in the language of a nationality, the Macedonian language is also studied."

579. The constitutional provisions on the position of the members of nationalities are elaborated further in several laws. It must be mentioned here that the standards built into the domestic legislation are fully compatible with the minimum international standards and in some areas (especially education and local self-government) they go even beyond.

Free expression of national affiliation

580. The free expression of national affiliation represents one of the fundamental values of the constitutional system of the Republic of Macedonia,

contained in article 8 of the Constitution. By tradition, in our State it is possible to express national affiliation in the census. In accordance with article 35 of the Law on the Census of the Population, Households, Dwellings, and Agricultural Holdings of the Republic of Macedonia, members of the nationalities have the right to choose freely whether they will be polled for the census in the official Macedonian language or in the language of the nationality to which they belong, and the census clerk is obligated to inform the persons being polled of this. The census forms for the census of members of the nationalities are bilingual (in the Macedonian language and in one of the languages of the nationalities - Albanian, Turkish, Roma, Serbian and Vlach).

581. Members of the nationalities have the right to determine freely their name and, according to article 5 of the Law on Identity Cards, the names of members of nationalities are registered both in the official language and in the language and alphabet of the nationality. The same standard is also foreseen in the Law on Registers.

The use of the languages of the nationalities in local self-government and in court proceedings

582. According to article 7 of the Constitution, the official language of the Republic of Macedonia is the Macedonian language and its Cyrillic alphabet. In the units of local self-government, where the majority of the inhabitants belong to a nationality, in addition to the Macedonian language and the Cyrillic alphabet, in official use also is the language and alphabet of the nationalities, in a manner determined by law. The use of the languages of the nationalities is further regulated by the Law on Local Self-Government. According to article 89 of this law, at the sessions of the council and other organs of the units of local self-government where the majority (over 50 per cent) or a significant number (over 20 per cent) of the citizens are members of a nationality, in addition to the Macedonian language and its Cyrillic alphabet, in official use also is the language and alphabet of the nationality concerned. Consequently, the status, decisions and other general acts passed by the organs stated in paragraph 1 of this article are written and published in the two languages.

583. In public services, in public institutions and public enterprises founded by the unit of local self-government where the majority of citizens are members of a nationality, in addition to the Macedonian language and its Cyrillic alphabet in official use also is the language and alphabet of the nationality which is in a majority. Public inscriptions are also written in the two languages. For the use of the languages of the nationalities in proceedings before the court, see article 14 of this Report.

Education in the languages of the nationalities

584. Starting from the fact that the education of the minorities in their mother tongue is of special importance for the protection and nurturing of national identity, the Government of the Republic of Macedonia provides full pre-school, primary and secondary education in the languages of the nationalities. According to the Law on Primary Education (art. 8), instruction of the nationalities is in their language and alphabet in a manner

determined by law. Members of the nationalities who follow instruction in the language of the nationality also have compulsory study of the Macedonian language. According to article 81 of the same law, pupils who follow instruction in the language of their nationality, the pedagogical documentation is in both languages while the pedagogical records are kept in the language and alphabet in which the instruction is carried out. Identical provisions are contained in the Law on Secondary Education. Besides this, article 3 of this law guarantees the right of education for everyone and under equal conditions determined by law, and prohibits discrimination based on sex, race, colour of skin, national and social origin, political and religious beliefs, property and social status.

585. Instruction in primary schools in the Republic of Macedonia is conducted in the Macedonian, Albanian, Turkish and Serbian languages. In 1995, supplementary instruction began in the Vlach language, which in time should develop into regular instruction. During the 1996/97 school year instruction in the Roma language began. The Government of the Republic of Macedonia, through the Ministry of Education and Physical Culture, organizes courses in the Roma language for training staff for instruction in this language. Also, already prepared and published are the first primer, reader and grammar in the Roma language.

586. Even though secondary education is not compulsory, the Government of the Republic of Macedonia is undertaking a series of measures to increase the participation of pupils of the nationalities in secondary education, in order to improve as much as possible the level of education of the members of the nationalities. These measures include:

(a) The conditions and criteria for enrolment are equal for all candidates. Entrance exams are taken in the language of instruction for which the candidate is applying;

(b) A decision of the Government foresees the creation of new classes in the languages of the nationalities in all those cases where pupils demonstrate the wish to continue with secondary education;

(c) The number of secondary education centres where instruction is conducted in the languages of the nationalities has increased;

(d) Continued improvement of the quality of education, through the preparation of new curricula, has taken place.

587. These measures have significantly increased the coverage of pupils from nationalities in secondary education. It is especially important that among the Albanian nationality during the last few years the number of pupils in secondary education has increased by almost 100 per cent. 19/ Still, the coverage does not yet correspond fully to the percentage of pupils of the Albanian nationality who have completed primary education. Because of this, the Government continues to take measures to improve the situation. This problem is present only among the Albanian nationality, while for all the other nationalities the coverage of pupils in secondary education is traditionally complete. This situation is due to the following:

(a) A social structure according to which members of some nationalities, and especially of the Albanian nationality, are mainly rural dwellers who, unfortunately, traditionally show no interest in continuing their education after secondary school, regardless of all the affirmative measures undertaken by the Government;

(b) A significant absence of the female population in the total number of pupils of the nationalities who continue after primary education. This is again characteristic of the rural Albanian population.

The insufficient coverage of pupils of some of the nationalities by secondary education translates into a smaller percentage of students of these nationalities at the universities of Skopje and Bitola.

588. In the domain of university education, members of the nationalities may attend instruction in their mother tongue at the Faculty of Pedagogy where, in addition to the Macedonian language, four-year courses are organized also in Albanian and Turkish; at the Faculty of Philology at the University in Skopje; at the Departments of Albanian Language and Literature and Turkish Language and Literature; and at the Faculty of Dramatic Arts where a special class of students was formed who follow instruction in vocational subjects in Albanian and Turkish.

589. In order to increase the number of students from the nationalities, the Government decided as early as 1992 to institute a special quota for the nationalities for student enrolment. From 1992 to 1995, this quota amounted to 10 per cent. Because of insufficient results, the Government adopted a decision in 1995 for the quota to be calculated separately for each nationality and that should reflect the percentage of the respective nationality in the total population, according to the census. This created conditions, starting from 1996/97 for the student structure to reflect the population structure of the State, from the point of view of nationality.

590. The number of students from the nationalities enrolled in the last five years marks a significant increase. From 351 students enrolled in the academic year 1992/93, the number grew to 906 students in the academic year 1996/97. During this period the number of enrolled students of Albanian and Turkish nationality showed a tendency towards permanent growth. For the Albanian nationality, from 168 in the academic year 1992/93 the number grew to 490 in the academic year 1996/97, which is 322 students, or 191.7 per cent, more, while for the members of the Turkish nationality an increase was shown of 81.8 per cent. Significant is the increase in enrolled students of the Vlach nationality, from 24 students in the academic year 1994/95 to 81 in the academic year 1996/97, an increase of 237.5 per cent. The number of enrolled students of Roma nationality grew from five in the academic year 1994/95 to nine in 1996/97, which represents an increase of 80 per cent.

Cultural institutions

591. One of the forms of expression and nurturing of identity and national characteristics is also the founding, the establishing and the operation of cultural institutions of the nationalities. In the Republic of Macedonia there is a long tradition of such institutions. In Skopje, the capital of the

Republic, there is a Theatre of Nationalities, within which framework there are two units: Albanian Drama and Turkish Drama. This theatre is fully financed by the State. For the needs of these theatres, a special class of students was established at the Faculty of Dramatic Arts, who follow instruction in the vocational subjects in Albanian and Turkish. Also, measures are being taken to promote the publication of books and brochures in the languages of the nationalities. Thus, in 1994 there were 93 books and brochures published in Albanian in 382,000 copies. The State participates in the financing of eight Albanian, four Turkish and one Roma cultural and artistic society. There are also mixed societies, namely two Macedonian-Albanian, one Macedonian-Turkish, two Macedonian-Roma and one Macedonian-Albanian-Turkish-Roma. It is possible to establish such societies through self-financing.

Media

592. The Constitution of the Republic of Macedonia guarantees the freedoms of speech, public address, public information and establishment of institutions for public information. Citizens, including members of the nationalities, have full and free access to information and freedom to receive and transfer information. It is not permitted to publish or spread information that is used for the violation of the rights and freedoms guaranteed by the Constitution or to incite to national, racial and religious hatred and intolerance (Law on Public Information).

593. Macedonian television has broadcasted a programme in Albanian since 1967; this programme was expanded from one hour to two hours per day in 1995. The Albanian Editorial Office employs more than 20 regular and approximately 10 part-time associates. The programme in Turkish amounts to one hour per day, while the programmes in Vlach, Roma and Serbian have a duration of 13 minutes per week. In addition to the regular programme, Macedonian television sets aside 120 minutes per week for documentary programmes in the languages of the nationalities as well as special programmes during State holidays.

594. In addition to State television, there are also private television stations where all programming is in the languages of the nationalities. (In Macedonia, a total of 250 private TV stations are registered.)

595. Macedonian Radio broadcasts a total of 15 hours of daily programmes in the languages of the nationalities. The programme in Turkish was introduced in 1945 and in Albanian in 1948. Since 1994 the programme in Albanian on Macedonian Radio amounts to 570 minutes per day. There is also a special block in the morning programme. The programme in Turkish is broadcast for 270 minutes per day. For programmes in Vlach and Roma, 120 minutes per week are set aside. There are also local public radio stations whose programmes are in the languages of the nationalities.

596. In Macedonia several daily or monthly papers are published in the languages of the nationalities. Two monthly and one other magazine are published in Albanian and Turkish respectively. Anyone may publish a private magazine in any language.

Freedom of confession

597. The Constitution of the Republic of Macedonia guarantees the freedom of confession. The expression of religion - free and public, individual or in community with others - is guaranteed. The Republic of Macedonia is a secular State where all religious communities and religious groups, including those of the members of the nationalities, are separate from the State and equal before the law. Also, they are free to establish religious schools and other social and humanitarian institutions, through a procedure foreseen by law.

Participation of members of the nationalities in the legislative, executive and judicial authorities

598. In 1990, the first multi-party elections for members of Parliament of the Republic of Macedonia and representatives to the municipal assemblies were held. Eighteen political parties and independent candidates took part. Among these were several parties that represented the interests of the nationalities. In the Parliament of the Republic of Macedonia, of the 120 elected representatives from eight political parties and three independent candidates, 22.5 per cent are members of the nationalities. In the municipal assemblies, 1,580 representatives were elected, of whom 21.2 per cent are members of the nationalities (14.8 per cent Albanians; 1.6 per cent Muslims; 1.4 per cent Turks; 1 per cent Serbs; 0.9 per cent Roma; 0.7 per cent Vlachs; 0.3 per cent Yugoslavs; and 0.1 per cent other nationalities).

599. At the last election for members of Parliament in 1994, 38 candidates of political parties and independent candidates took part, and among the elected representatives 18.3 per cent were members of the nationalities. The following table gives a detailed presentation of the national structure of the two past multi-party Parliaments of the Republic of Macedonia (it must be mentioned that in 1996 the number of Macedonian representatives was reduced by one and the number of Roma was increased by one representative).

Elected members of Parliament, by national affiliation, 1990 and 1994

	Total	Macedonians	Albanians	Turks	Roma	Vlachs	Serbs	Others
1990: No.	120	93	23	-	2	-	-	2
%	100	77.5	19.2	-	1.7	-	-	1.7
1994: No.	120	98	19	1	1	-	1	-
%	100	81.7	15.8	0.8	0.8	-	0.8	0.0

Source: Statistical Office of the Republic of Macedonia.

600. In the Republic of Macedonia there are 15 political parties that represent the interests of the nationalities.

601. In relation to the executive authorities, the last three Governments elected by the Parliament of the Republic are coalitions, where one of the

coalition partners is one of the parties of the Albanian nationality. By the way, in the present Government of 20 members, 7 (35 per cent) are members of the nationalities. When the third segment of Government - the judiciary - was being constituted, the general orientation was to have an appropriate representation of the nationalities. Article 40 of the Law on the Courts explicitly forbids discrimination in the election of judges and lay-judges in relation to sex, race, colour of skin, national and social origin, political and religious beliefs, property and social status. According to paragraph 2 of the same article, in the election of judges and lay-judges, without disturbing the criteria prescribed by law, efforts shall be made to provide an appropriate representation of the nationalities in the Republic. This provision from the law found its practical implementation in the election of judges in the period 1995-1997. (For the national structure of the judges and the public prosecutors and deputy public prosecutors, see annex II.)

602. The Republic Court Council consists of seven members, of whom two are members of the nationalities. The Constitutional Court of the Republic of Macedonia is an organ of the Republic that protects constitutionality and legality. This independent organ is not a part of the judiciary and it has a special place and importance in the constitutional system of the Republic of Macedonia. The Constitutional Court has nine members, of whom three are members of the nationalities.

603. (When comparing data one must bear in mind that meeting professional criteria is an element that reflects very negatively upon the participation of the nationalities in the judiciary, having in mind their educational structure. As an illustration, it can be mentioned that in the Republic of Macedonia there are a total of 350 Albanian lawyers and only 90 have passed the examination which is a condition for nomination as a judge.)

Representation of members of the nationalities in the State administration

604. The Government of the Republic of Macedonia is aware that the principle of non-discrimination by itself is not sufficient to protect the identity and specific characteristics of the nationalities, nor to provide full and effective equality between their members and those of the nationalities, nor to provide full and effective equality between their members and those of the majority. Starting from this conclusion, the Government is undertaking measures of affirmative action, directed towards increasing the number of members of the nationalities in the State administration; these measures are not regarded as discrimination against the majority (the representation of the nationalities until 1990 was not satisfactory and was in the range of 1.5 per cent to 2 per cent, depending on the sector). Even though these measures show significant results, continuous efforts are being made for the percentage of the members of the nationalities in the State administration to reach the appropriate level. As an illustration, the situation in the most sensitive sectors - Ministry of Defence, Ministry of Internal Affairs, Ministry of Foreign Affairs, and Ministry of Education - is as follows:

(a) In the army of the Republic of Macedonia, a relatively high percentage of response in the recruitment of soldiers of all nationalities was achieved even from the beginning. (The number of soldiers of Albanian nationality is in the range of 16 per cent to 26 per cent, depending on the

year, while for the other nationalities the response almost completely corresponds to the percentage representation of the appropriate nationality in the total structure of the population.) The remaining structure of the Ministry of Defence is as follows:

(i) 8.16 per cent of the civilians in the Ministry of Defence and the army are members of the nationalities, of whom 2.87 per cent are Albanians, 4.8 per cent Serbs and 0.4 per cent Turks;

(ii) 8.64 per cent of junior officers in the Ministry and the army are members of the nationalities, of whom 5.14 per cent are Albanians, 2.8 per cent Serbs and 0.7 per cent Turks;

(iii) 5.6 per cent of the officers in the Ministry and the army are members of the nationalities, of whom 3.1 per cent are Albanians, 2.1 per cent Serbs and 0.4 per cent Turks;

(iv) 16.6 per cent of generals are members of the nationalities and all are Albanians;

(v) 14 per cent of cadets in the Military Academy are (first generation) members of the nationalities, of whom 12 per cent are Albanians, 1 per cent Turks and 1 per cent Serbs;

(b) In the Ministry of Internal Affairs 8.7 per cent of the employees are members of the nationalities, a number which has almost doubled in only 2-3 years. In order to further improve the situation, this Ministry has undertaken special measures: introduction of a special quota of 22 per cent for the nationalities when enrolling pupils at the Police School in 1994/95; providing a special quota of 50 per cent for Albanians in the open competition for employing police officers in the same year, etc.;

(c) The most positive trend in relation to the participation of the nationalities can be noticed in the Ministry of Foreign Affairs where the deficit of this population was significant. At present, 16.05 per cent of Ministry employees are members of the nationalities (more precisely: 9.3 per cent Albanians, 1.8 per cent Turks, 2.2 per cent Serbs, 0.7 per cent Vlachs and 1.8 per cent others). At the senior positions of this Ministry, 27 per cent are members of the nationalities;

(d) At the Ministry of Education, 7 per cent of the employees are members of the nationalities. Characteristic of this Ministry is that almost all members of the nationalities hold senior positions. The Pedagogical Institute is active as a part of this Ministry, as a professional body 11 per cent of whose employees are members of the nationalities - 9.4 per cent Albanians and 2 per cent Turks. Open competitions are in progress for officers linked to the instruction conducted in the languages of the nationalities, so that during the next period this number should increase significantly.

Notes

1/ The Republic of Macedonia is party to the Optional Protocol to the International Covenant on Civil and Political Rights and, on 26 January 1995, it ratified the Second Optional Protocol. Also, the Republic of Macedonia is a party to the International Covenant on Economic, Social and Cultural Rights, the International Convention for the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child.

On 27 February 1997, the Republic of Macedonia ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the protocols Nos. 1, 4, 6 and 11, and the Framework Convention for the Protection of National Minorities. Also, the Republic of Macedonia has ratified the European Convention Against Torture, Inhuman and Degrading Treatment or Punishment, and Protocols Nos. 1 and 2 to the Convention. The Republic of Macedonia is a signatory to the European Charter on Regional and Minority Languages.

2/ According to the Law on Citizenship, citizenship of the Republic of Macedonia may be acquired: by origin, by birth on the territory of the Republic of Macedonia, by naturalization and under international agreements (for more detail, see article 24 of this report).

3/ See appendix 4 for the complete list of laws that regulate the realization of the rights guaranteed by the Constitution and the International Covenant on Civil and Political Rights referred to in this report.

4/ This kind of restriction is foreseen for the following freedoms and rights: freedom of liberty (article 12 of the Constitution); confidentiality of correspondence (article 17, paragraph 1, of the Constitution); freedom of association (article 20 of the Constitution); the right to peaceful assembly (article 21 of the Constitution); inviolability of the home (article 26 of the Constitution); the right to free movement on the territory of the Republic of Macedonia and free choice of place of residence (article 27 of the Constitution); and the right to strike (article 38 of the Constitution).

5/ The Law on Defence contained until recently a provision according to which a person is exempt from the obligation to serve military duty who, besides Macedonian citizenship, has also accepted a foreign citizenship, except if he requests to serve military duty. The provision was disputed before the Constitutional Court, which revoked it, with the justification that considering that a citizen of the Republic of Macedonia who has citizenship of some other State is considered in the Republic of Macedonia only as a citizen of the Republic of Macedonia (article 2 of the Law on Citizenship), the exemption of persons from the obligation to serve military duty, contained in the disputed provision, means bringing these persons into a privileged position in relation to the other citizens, which violates the constitutional principle of equality of the citizens before the Constitution and laws (Decision by the Constitutional Court of the Republic of Macedonia, U.No. 55/97 of 1 October 1997, Official Gazette of RM, No. 54/97).

6/ It must be noted here that with the punishment of imprisonment convicted persons are restricted in relation to their freedom of movement, but they enjoy all other rights while serving their sentence.

7/ According to the Criminal Code, criminal sanctions may not be applied against a juvenile who at the time the crime was perpetrated had not reached 14 years of age (child). Juveniles who have criminal responsibility are divided into two categories: younger juveniles (from 14 to 16 years) and older juveniles (from 16 to 18 years). Imprisonment may be pronounced only to an older juvenile who is criminally responsible, but then only as an exception (article 72 of the Criminal Code).

8/ The term place of abode, according to the Law, is a place where the citizen resides temporarily, outside of the municipality of his residence. Residence is the place where the citizen has settled with the intention to live there permanently and where he has his dwelling.

9/ In the sense of the Law, it is considered the citizen has secured a dwelling for living if he or a member of his family has a dwelling to move into, on the grounds of ownership or agreement for using the dwelling.

10/ The security measure of confiscation of objects is contained in article 68 of the Criminal Code, according to which objects that were used or were intended for the perpetration of a criminal offence, or which resulted from the perpetration of the criminal offence, may be taken away if they are owned by the offender. Also, objects for which the danger exists that they will be used again for the perpetration of a criminal offence, or if this is required by the interests of general security or reasons of morality, shall be taken away regardless of whether they are owned by the offender or by a third person.

11/ It must be mentioned that this concerns institutions where prison sentences are served by perpetrators of serious criminal offences, repeat offenders, persons sentenced to life imprisonment, etc. - high-level security institutions.

12/ According to article 44 of the Constitution of the Republic of Macedonia, everyone has the right to education. Education is accessible to everyone under equal conditions. Primary education is compulsory and free. Based on article 45 of the Constitution, citizens have a right to establish private schools at all levels of education, with the exception of primary education, under conditions determined by law.

13/ The reservation in relation to the right guaranteed by article 2 of Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms states: "the right of the parents to provide education and instruction in conformity with their religious and philosophical conviction, in relation to the Republic of Macedonia, may not be implemented through private primary education, pursuant to article 45 of the Constitution of the Republic of Macedonia".

14/ At the moment when this report was being prepared, it was expected that the new Law on Public media would be before the Government for approval.

15/ The Law On Social Organizations and Associations of Citizens dates from 1983, while it was amended in 1990. At the moment when this report was being prepared the new draft Law on Associations of Citizens and Foundations is in preparation in which are incorporated all international standards concerning freedom of association.

16/ According to the draft Law on Associations of Citizens and Foundations, associations of citizens may be founded by at least five citizens.

17/ According to article 70 of the Law on Pension and Disability Insurance, a family pension is paid to the spouse; the children (born in the marriage, out of wedlock or adopted, adopted children who have been supported by the insured grandchildren and other children without parents whom the insured has supported), and the parents of the insured person.

18/ According to statistical data of the Ministry of Internal Affairs, in 1975, 40 cases of drug addition were discovered, in 1980 - 122, in 1985 - 345, and in 1994 - 837. It is estimated that this number is now between 1,500 and 2,000 persons.

19/ From 24.12 per cent in 1992/93 to 40.83 per cent in 1994/95.

ANNEX I

Population of the Republic of Macedonia, by ethnic origin

Population	Total	Percentage
Total	1 936 877	100.0
Macedonians	1 288 330	66.5
Albanians	442 914	22.9
Turks	77 252	4.0
Roma	43 732	2.3
Serbs	39 260	2.0
Muslims	15 315	0.8
Vlachs	8 467	0.4
Bosniacs	7 244	0.4
Egyptians	3 169	0.2
Bulgarians	1 547	0.1
Croats	2 178	0.1
Montenegrins	2 281	0.1
Slovenians	391	0.0
Greek:	349	0.0
Poles	335	0.0
Russians	269	0.0
Hungarians	125	0.0
Ukrainians	96	0.0
Czechs	81	0.0
Belarusians	66	0.0
Germans	60	0.0
Italians	46	0.0
Slovaks	45	0.0
Romanians	34	0.0
Austrians	27	0.0
Jews	27	0.0
Others	743	0.0
No statement	1 962	0.0
From other regions	532	0.0

Source: Republic Statistical Office.

ANNEX II

Ethnic structure of the elected judges in the Republic of Macedonia

	Supreme Court	Court of Appeal	First instance courts	Total
Macedonians	20 (80%)	74 (84.1%)	483 (89%)	577 (88%)
Albanians	4 (16%)	8 (9.1%)	31 (5.7%)	43 (6.6%)
Turks	-	2 (2.3%)	3 (0.5%)	5 (0.8%)
Vlachs	1 (4%)	1 (1.1%)	11 (2%)	13 (2%)
Serbs	-	2 (2.3%)	10 (1.8%)	12 (1.8%)
Montenegrins	-	1 (1.1%)	1 (0.2%)	2 (0.3%)
Macedonian Muslims	-	-	1 (0.2%)	1 (0.1%)
Muslims	-	-	3 (0.5%)	3 (0.45%)
Total	25	88	543	656 (100%)

Source: Republic Court Council.

Ethnic structure of public prosecutors' offices of the Republic of Macedonia

	Deputy public prosecutors	Higher public prosecutors' offices	First instance public prosecutors' offices	Total
Macedonians	8 (80%)	24 (88.9%)	108 (85%)	140 (86.4%)
Albanians	2 (20%)	2 (7.4%)	12 (9.6%)	16 (9.8%)
Vlachs	-	-	2 (1.6%)	2 (1.2%)
Serbs	-	1 (3.7%)	3 (2.4%)	4 (2.4%)
Total	10	27	125	162 (100%)

Source: Public Prosecutor's Office of the Republic of Macedonia.

ANNEX III

Total population of the Republic of Macedonia according to the census on religion and ethnic structure

	Total	Christians	Orthodox	Catholics	Protestants	Muslims	Others	Atheists	No answer	Unknown
Total	100%	1.5	66.3	0.4	0.1	30.0	0.1	0.3	1.2	0.1
Macedonians	100%	2.1	94.8	0.3	0.1	1.2	0.1	0.3	1.0	0.1
Albanians	100%	0.0	0.2	0.2	0.0	98.2	0.0	0.0	1.3	0.0
Turks	100%	0.0	-	-	*	97.6	0.5	0.1	1.4	0.1
Romas	100%	0.2	1.8	0.0	0.1	91.6	1.6	0.1	3.9	0.6
Vlachs	100%	5.2	92.6	-	*	-	0.2	0.7	1.3	*
Serbs	100%	1.1	95.6	0.1	*	0.3	0.1	1.1	1.5	0.1
Bosniacs	100%	*	0.9	*	*	97.9	0.2	*	0.8	*
Bulgarians	100%	1.7	93.9	*	*	*	*	1.0	2.4	*
Egyptians	100%	-	1.4	*	-	95.7	0.6	*	2.1	*
Muslims	100%	*	*	*	-	98.0	0.3	0.1	1.3	0.1
Croats	100%	4.3	9.0	69.6	*	1.6	0.9	7.7	6.0	0.7
Montenegrins	100%	1.8	77.6	0.7	-	13.0	*	4.3	2.3	*
Others	100%	1.9	35.5	14.5	0.4	31.1	1.3	4.3	8.9	1.8
No statement	100%	0.5	51.8	2.1	*	14.6	*	7.9	19.8	2.6

Source: Republic Statistical Office

Symbols: "-" = None "*" = Fewer than 10

ANNEX IV

Persons accused and sentenced for criminal acts against the rights and freedoms of people and citizens

CRIMINAL ACT	1993		1994		1995		1996		TOTAL	
	Accused	Convicted	Accused	Convicted	Accused	Convicted	Accused	Convicted	Accused	Convicted
Violation of equality of citizens	-	-	-	-	-	-	-	-	-	-
Violation of right to use language and alphabet	-	-	-	-	-	-	-	-	-	-
Coercion	1	1	-	-	-	-	4	1	5	2
Unlawful detention	2	2	9	6	9	5	17	14	37	27
Abduction	1	-	7	7	3	3	8	5	19	15
Coercing a confession or statement	-	-	-	-	-	-	1	1	1	1
Maltreatment while on the job	8	8	3	3	5	5	10	8	26	24
Threatening security	142	61	163	75	179	76	92	43	576	255
Violation of inviolability of the home	18	6	20	4	21	10	16	7	75	27
Unlawful search	-	-	-	-	-	-	-	-	-	-
Violation of the confidentiality of correspondence and other parcels	-	-	2	-	1	1	-	-	3	1
Unauthorized disclosure of secrets	-	-	1	1	1	1	-	-	2	2
Unauthorized tapping and sound record	-	-	-	-	-	-	-	-	-	-
Unauthorized photographing	-	-	-	-	-	-	-	-	-	-
Violation of the right to use legal remedies	-	-	-	-	-	-	-	-	-	-
Stopping the distribution of printed matter	-	-	-	-	-	-	-	-	-	-
Stopping a public gathering	-	-	-	-	-	-	-	-	-	-
TOTAL:	172	78	205	96	219	101	150	79	746	354

Persons accused and sentenced for criminal acts with elements of torture or inhuman and humiliating acts

CRIMINAL ACT	1993		1994		1995		1996		TOTAL	
	Accused	Convicted	Accused	Convicted	Accused	Convicted	Accused	Convicted	Accused	Convicted
Murder	30	29	39	34	42	36	32	28	143	127
Serious bodily injury	151	140	111	99	141	131	119	104	522	474
Coercion	1	1	-	-	-	-	4	1	5	2
Unlawful detention	2	2	9	6	9	5	17	14	37	27
Adduction	1	-	7	7	3	3	8	5	19	15
Coercing a confession or statement	-	-	-	-	-	-	1	1	1	1
Maltreatment while on the job	8	8	3	3	5	5	10	8	26	24
Threatening security	142	61	163	75	179	76	92	43	576	255
Rape	24	19	24	16	21	18	24	22	93	75
Rape of a helpless person	3	2	3	2	7	4	-	-	13	8
Raper of an adolescent child	4	4	18	12	10	10	13	13	45	39
Neglect or maltreatment of an adolescent	4	4	19	17	27	27	12	7	62	55
Coercion	4	4	3	3	2	-	3	2	12	9
Blackmail	-	-	-	-	1	-	-	-	1	-
Violent acts	43	35	53	34	58	45	53	46	207	160
Maltreatment of subordinate or younger person	-	-	-	-	1	1	-	-	1	1
Total:	417	309	452	308	506	361	388	294	1 763	1 272

ANNEX V

List of regulations used in the preparation of this report

The Constitution of the Republic of Macedonia (Official Gazette of RM No. 52/91)
Criminal Code (Official Gazette of RM No. 37/96)
Criminal Procedure Code (Official Gazette of RM No. 15/97)
Law on the Execution of Sanctions (Official Gazette of RM No. 3/97)
Law on Minor Offences (Official Gazette of RM No. 15/97)
Law on Courts (Official Gazette of RM No. 36/96)
Law on the Public Prosecutor's Office (Official Gazette of RM No. 80/92, 19/93, 9/94 and 9/96)
Law on the Private Practice of Law (Official Gazette of RM No. 80/92)
Law on the Republic Court Council (Official Gazette of RM No. 80/92)
Civil Procedure Code (Official Gazette of RM No. 4/77, 36/80 and 69/82)
Law on Non-Litigation Procedure (Official Gazette of RM No. 119/79)
Law on Executive Procedure (Official Gazette of RM No. 53/97)
Law on the Family (Official Gazette of RM No. 80/92)
Inheritance Law (Official Gazette of RM No. 47/96)
Law on Citizenship (Official Gazette of RM No. 67/92)
Law on Registers (Official Gazette of RM No. 8/95)
Law on Personal Names (Official Gazette of RM No. 8/95)
Law on Census of the Population, Households, Apartments and Agricultural Economies of the Republic of Macedonia (Official Gazette of RM No. 25/94)
Law on the Election of Representatives (Official Gazette of RM No. 28/90)
Law on Local Elections (Official Gazette of RM No. 46/96)
Law on Local Self-Government (Official Gazette of RM No. 52/95)
Law on the Elections List and Elections Identity Card (Official Gazette of RM No. 49/96)
Law on Polling Stations (Official Gazette of RM No. 50/97)
Law on Political Parties (Official Gazette of RM No. 41/94)
Law on Social Organizations and Association of Citizens (Official Gazette of RM No. 32/83 and 12/90)
Law on Religious Communities and Religious Groups (Official Gazette of RM No. 35/97)
Law on the National Ombudsman (Official Gazette of RM No. 7/97)
Law on Internal Affairs (Official Gazette of RM No. 19/95)
Law on the Movement and Stay of Foreigners (Official Gazette of RM No. 36/92, 66/92 and 26/93)
Law on Travel Identification Documents of the Citizens of the Republic of Macedonia (Official Gazette of RM No. 67/92)
Law on Registration of Residence Address of the Citizens (Official Gazette of RM No. 36/92 and 12/93)
Law on Crossing the State Border and Movement through the Border Area (Official Gazette of RM No. 36/92, 66/92, 12/93, 31/93 and 11/94)
Law on Broadcasting (Official Gazette of RM No. 20/97)
Law on Public Informing (Official Gazette of RM No. 20/74)
Law on Import and Distribution of Foreign Public Media and of Foreign Information Activity (Official Gazette of RM No. 39/74 and 74/87)
Law on Employment Relations (Official Gazette of RM No. 80/93)
Law on Strikes (Official Gazette of RM No. 23/91)

Law on Pension and Disability Insurance (Official Gazette of RM No. 80/93, 3/94, 14/95 and 32/97)
Law on Defence (Official Gazette of RM No. 8/92)
Law on Health Protection (Official Gazette of RM No. 17/97)
Law on Protection of the Population from Infectious Diseases (Official Gazette of RM No. 18/76, 18/92, 37/86 and 15/95)
Law on Social Protection of Children (Official Gazette of RM No. 6/81, 40/87, 38/91 and 12/93)
Law on Social Protection (Official Gazette of RM No. 50/97)
Law on Administrative Organs (Official Gazette of RM No. 40/90 and 63/94)
Law on the Protection of Personal Data (Official Gazette of RM No. 12/94)
Law on Public Assemblies (Official Gazette of RM No. 55/95)
Law on Concessions (Official Gazette of RM No. 42/93)
Instruction for the Use of Firearms and Means of Enforcement by the Members of the Guards of the Correctional Institutions (Official Gazette of RM No. 3/81)
Regulation on the Manner of Carrying out Guard Duty, Arms and Equipment of the Guards in the Penal Reformatory Institutions and Upbringing Reformatory Homes
Court Rules of Procedure (Official Gazette of RM No. 9/97)
Code of Medical Deontology (Official Gazette of RM No. 24/95)
Book of procedures of the Constitutional Court of the Republic of Macedonia (Official Gazette of RM No. 70/92)

ANNEX VI

List of international agreements on human rights to which the Republic of Macedonia is a party

1. International Covenant on Civil and Political Rights.

2. Convention on the Prevention and Punishment of the Crime of Genocide.

3. Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity.

4. International Convention on the Suppression and Punishment of the Crime of Apartheid.

5. Slavery Convention.

6. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.

7. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

8. Convention relating to the Status of Refugees.

9. Convention relating to the Status of Stateless Persons.

10. Protocol relating to the Status of Refugees.

11. Convention on the Political Rights of Women.

12. Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages.

13. International Convention on the Elimination of All Forms of Racial Discrimination.

14. Convention on the Elimination of All Forms of Discrimination against Women.

15. Convention against Discrimination in Education.

16. Discrimination (Employment and Occupation) Convention.

17. International Covenant on Economic, Social and Cultural Rights.

18. International Convention for the Suppression of the Traffic in Women and Children.

19. Convention on the Rights of the Child.

20. Optional Protocol to the International Covenant on Civil and Political Rights.

21. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

22. Convention for the Protection of Human Rights and Fundamental Freedoms and Protocol Nos. 1, 2, 3, 4, 5, 6, 7, 8 and 11.

23. European Charter of Local Self-Government.

24. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and Protocol Nos. 1 and 2.

25. Framework Convention for the Protection of National Minorities.

The Republic of Macedonia has signed the following:

1. European Charter for Regional or Minority Languages.

2. Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine.

3. Convention on the Recognition of Qualifications Concerning Higher Education in the European Region.

4. Convention on Nationality.